

Senate Bill 384

By: Senators Ligon, Jr. of the 3rd, Miller of the 49th, Dugan of the 30th, Stone of the 23rd and Tillery of the 19th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to solid waste management, so as to
3 prohibit the location of any municipal solid waste disposal facility or any coal combustion
4 residual landfill within a certain distance of a blackwater river wholly contained within the
5 borders of this state and originating on the coastal plain, and which flows directly into the
6 ocean; to provide for definitions; to amend Part 3 of Article 2 of Chapter 7 of Title 16 of the
7 Official Code of Georgia Annotated, relating to criminal trespass and damage to property
8 relative to waste control, so as to provide for a conforming cross-reference; to amend Part 1
9 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
10 county special purpose local option sales tax, so as to provide for conforming
11 cross-references; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
16 relating to general provisions relative to solid waste management, is amended in Code
17 Section 12-8-22, relating to definitions, by adding new paragraphs to read as follows:

18 "12-8-22.

19 As used in this article, the term:

20 (1) 'Affected county' means, in addition to the county in which a facility is or is proposed
21 to be located, each county contiguous to the host county and each county and
22 municipality within a county that has a written agreement with the facility to dispose of
23 solid waste.

24 ~~(1.1)~~(2) 'Biomedical waste' means pathological waste, biological waste cultures and
25 stocks of infectious agents and associated biologicals, contaminated animal carcasses
26 (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy

27 waste, discarded medical equipment and parts, not including expendable supplies and
28 materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of
29 the board as such rule existed on January 1, 2006, and other such waste materials.

30 ~~(2)~~(3) 'Board' means the Board of Natural Resources of the State of Georgia.

31 (4) 'CCR' or 'coal combustion residuals' means fly ash, bottom ash, boiler slag, and flue
32 gas desulfurization materials generated from the burning of coal by electric utilities and
33 independent power producers for the purpose of generating electricity.

34 ~~(3)~~(5) 'Certificate' means a document issued by a college or university of the University
35 System of Georgia or other organization approved by the director stating that the operator
36 has met the requirements of the board for the specified operator classification of the
37 certification program.

38 ~~(4)~~(6) 'Closure' means a procedure approved by the division which provides for the
39 cessation of waste receipt at a solid waste disposal site and for the securing of the site in
40 preparation for post-closure.

41 ~~(4.1)~~(7) 'Commercial solid waste' means all types of solid waste generated by stores,
42 offices, restaurants, warehouses, and other nonmanufacturing activities, excluding
43 residential and industrial wastes.

44 ~~(5)~~(8) 'Composting' means the controlled biological decomposition of organic matter into
45 a stable, odor-free humus.

46 ~~(5.1)~~(9) 'Construction or demolition waste' means waste building materials and rubble
47 resulting from construction, remodeling, repair, or demolition operations on pavements,
48 houses, commercial buildings, and other structures. Such waste includes, but is not
49 limited to, waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper,
50 cardboard, and other nonputrescible wastes associated with construction and demolition
51 activities which have a low potential for ground-water contamination. Inert waste landfill
52 materials approved by the board for disposal in landfills permitted by rule and regulation
53 are also included in this definition if disposed in a construction or demolition waste
54 landfill.

55 ~~(6)~~(10) 'Contaminant' means any physical, chemical, biological, or radiological substance
56 or matter.

57 ~~(7)~~(11) 'Director' means the director of the Environmental Protection Division of the
58 Department of Natural Resources.

59 ~~(8)~~(12) 'Disposal facility' means any facility or location where the final deposition of
60 solid waste occurs and includes, but is not limited to, landfilling and solid waste thermal
61 treatment technology facilities.

62 ~~(9)~~(13) 'Division' means the Environmental Protection Division of the Department of
63 Natural Resources.

64 ~~(9.1)~~(14) 'Feedstock' means raw material that is used in a machine or industrial process.

65 ~~(10)~~(15) 'Financial responsibility mechanism' means a mechanism designed to
66 demonstrate that sufficient funds will be available to meet specific environmental
67 protection needs of solid waste handling facilities. Available financial responsibility
68 mechanisms include, but are not limited to, insurance, trust funds, surety bonds, letters
69 of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees
70 as defined in 40 C.F.R. Part 264 Subpart H — Financial Requirements.

71 ~~(10.1)~~(16) 'Gasification to fuels and chemicals' means a process through which recovered
72 materials or other nonrecycled feedstock is heated and converted into a fuel-gas mixture
73 in an oxygen-deficient atmosphere, and such mixture is converted into fuel, including
74 ethanol and transportation fuel, chemicals, or other chemical feedstocks.

75 ~~(10.2)~~(17) 'Gasification to fuels and chemicals facility' means a facility that collects,
76 separates, stores, or converts nonrecycled feedstock into fuels, chemicals, or other
77 valuable final or intermediate products by using a gasification to fuels and chemicals
78 process. Such term shall not include a waste handling facility or solid waste thermal
79 treatment facility.

80 ~~(11)~~(18) 'Generator' means any person in Georgia or in any other state ~~who~~ that creates
81 solid waste.

82 ~~(12)~~(19) 'Hazardous constituent' means any substance listed as a hazardous constituent
83 in regulations promulgated pursuant to the federal act by the administrator of the United
84 States Environmental Protection Agency which are in force and effect on February 1,
85 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing of
86 Hazardous Waste.

87 ~~(12.1)~~(20) 'Industrial solid waste' means solid waste generated by manufacturing or
88 industrial processes or operations that is not a hazardous waste regulated under Part 1 of
89 Article 3 of this chapter, the 'Georgia Hazardous Waste Management Act.' Such waste
90 includes, but is not limited to, waste resulting from the following manufacturing
91 processes: ~~Electric~~ electric power generation; fertilizer and agricultural chemicals; food
92 and related products and by-products; inorganic chemicals; iron and steel products;
93 leather and leather products; nonferrous metal and foundry products; organic chemicals;
94 plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone,
95 glass, clay, and concrete products; textiles; transportation equipment; and water
96 treatment. This term does not include mining waste or oil and gas waste.

97 ~~(13)~~(21) 'Label' means a code label described in paragraphs (2) and (3) ~~and (4)~~ of
98 subsection (b) of Code Section 12-8-34.

99 ~~(14)~~(22) 'Landfill' means an area of land on which or an excavation in which solid waste
 100 is placed for permanent disposal and which is not a land application unit, surface
 101 impoundment, injection well, or compost pile.

102 ~~(15)~~(23) 'Leachate collection system' means a system at a landfill for collection of the
 103 leachate which may percolate through the waste and into the soils surrounding the
 104 landfill.

105 ~~(15.1)~~(24) 'Litter' ~~has the meaning provided by~~ shall have the same meaning as set forth
 106 in Code Section 16-7-42.

107 ~~(16)~~(25) 'Manifest' means a form or document used for identifying the quantity and
 108 composition and the origin, routing, and destination of special solid waste during its
 109 transportation from the point of generation, through any intermediate points, to the point
 110 of disposal, treatment, or storage.

111 ~~(17)~~(26) 'Materials recovery facility' means a solid waste handling facility that provides
 112 for the extraction from solid waste of recoverable materials, materials suitable for use as
 113 a fuel or soil amendment, or any combination of such materials.

114 ~~(17.1)~~(27) 'Multijurisdictional solid waste management plan' means a comprehensive
 115 solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more
 116 jurisdictions.

117 ~~(18)~~(28) 'Municipal solid waste' means any solid waste derived from households,
 118 including garbage, trash, and sanitary waste in septic tanks, ~~and means~~ solid waste from
 119 single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds,
 120 picnic grounds, and ~~day-use~~ day-use recreation areas. ~~The~~ This term includes yard
 121 trimmings, construction or demolition waste, and commercial solid waste but does not
 122 include solid waste from mining, agricultural, or silvicultural operations or industrial
 123 processes or operations.

124 ~~(19)~~(29) 'Municipal solid waste disposal facility' means any facility or location where the
 125 final deposition of any amount of municipal solid waste occurs, whether or not mixed
 126 with or including commercial or industrial solid waste, and includes, but is not limited
 127 to, municipal solid waste landfills and municipal solid waste thermal treatment
 128 technology facilities.

129 ~~(20)~~(30) 'Municipal solid waste landfill' means a disposal facility where any amount of
 130 municipal solid waste, whether or not mixed with or including commercial waste,
 131 industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is
 132 disposed of by means of placing an approved cover thereon.

133 ~~(20.1)~~(31) 'Nonrecycled feedstock' means one or more of the following materials,
 134 derived from nonrecycled materials, that has been processed so that it may be used as a

135 feedstock in a gasification to fuels and chemicals facility, but excluding coal refuse and
 136 scrap tires:

137 (A) Post-use plastics; or

138 (B) Materials for which the Environmental Protection Agency has made a nonwaste
 139 determination under 40 C.F.R. Section 241.3(c) or that are otherwise determined not
 140 to constitute waste.

141 ~~(21)~~(32) 'Operator' means the person stationed on the site who is in ~~responsible~~ charge
 142 of and has direct supervision of daily field operations of a municipal solid waste disposal
 143 facility to ensure that the facility operates in compliance with the permit.

144 ~~(22)~~(33) 'Person' means the State of Georgia or any other state or any agency or
 145 institution thereof and any municipality, county, political subdivision, public or private
 146 corporation, solid waste authority, special district empowered to engage in solid waste
 147 management activities, individual, partnership, association, or other entity in Georgia or
 148 any other state. This term also includes any officer or governing or managing body of
 149 any municipality, political subdivision, solid waste authority, special district empowered
 150 to engage in solid waste management activities, or public or private corporation in
 151 Georgia or any other state. This term also includes employees, departments, and agencies
 152 of the federal government.

153 ~~(23)~~(34) 'Post-closure' ~~'Postclosure'~~ means a procedure approved by the division to
 154 provide for long-term financial assurance, monitoring, and maintenance of a solid waste
 155 disposal site to protect human health and the environment.

156 ~~(22.1)~~(35) 'Post-use plastics' means recovered plastics, derived from any source, that are
 157 not being used for their originally intended purpose and that might otherwise become
 158 waste if not processed at a pyrolysis or gasification to fuels and chemicals facility or
 159 recycled, ~~and the term~~ This term includes plastics that may contain incidental
 160 contaminants or impurities such as paper labels or metal rings.

161 ~~(24)~~(36) 'Private industry solid waste disposal facility' means a disposal facility which
 162 is operated exclusively by and for a private solid waste generator for the purpose of
 163 accepting solid waste generated exclusively by said private solid waste generator.

164 ~~(24.1)~~(37) 'Pyrolysis' means a process through which post-use plastics are heated, in an
 165 oxygen-free environment, until melted and thermally decomposed, then cooled,
 166 condensed, and converted into oil, diesel, gasoline, home heating oil, or other liquid fuel;
 167 gasoline or diesel blendstock; chemicals or chemical feedstock; waxes or lubricants; or
 168 other similar raw materials or intermediate or final products.

169 ~~(24.2)~~(38) 'Pyrolysis facility' means a facility that collects, separates, stores, or converts
 170 post-use plastics into fuels or other valuable final or intermediate products by using a

171 pyrolysis process. Pyrolysis facilities shall not be considered solid waste handling
172 facilities or solid waste thermal treatment facilities.

173 ~~(25)~~(39) 'Recovered materials' means those materials which have known use, reuse, or
174 recycling potential; can be feasibly used, reused, or recycled; and have been diverted or
175 removed from the solid waste stream for sale, use, reuse, or recycling, whether or not
176 requiring subsequent separation and processing.

177 ~~(26)~~(40) 'Recovered materials processing facility' means a facility engaged solely in the
178 storage, processing, recycling, and resale or reuse of recovered materials. Such facility
179 shall not be considered a solid waste handling facility; provided, however, that any solid
180 waste generated by such facility shall be subject to all applicable laws and regulations
181 relating to such solid waste.

182 ~~(27)~~(41) 'Recycling' means any process by which materials which would otherwise
183 become solid waste are collected, separated, or processed and reused or returned to use
184 in the form of raw materials, intermediates, or products which can be used as a substitute
185 for products not derived by such processes.

186 ~~(27.1)~~(42) 'Regional ~~landfill~~ landfill' or ~~regional~~ regional solid waste disposal facility'
187 means a facility owned by a county, municipality, authority, or special district
188 empowered to engage in solid waste management activities, or any combination thereof,
189 which serves two or more or any combination of counties, municipalities, or special solid
190 waste districts.

191 ~~(27.2)~~(43) 'Regional solid waste management plan' means a comprehensive solid waste
192 management plan adopted pursuant to Code Section 12-8-31.1 covering two or more
193 counties and may include one or more municipal corporations within those counties.

194 ~~(28)~~(44) 'Retreadable casing' means a scrap tire suitable for retreading.

195 ~~(29)~~(45) 'Rigid plastic bottle' means any rigid plastic container with a neck that is smaller
196 than the container body with a capacity of 16 ounces or more and less than five gallons.

197 ~~(30)~~(46) 'Rigid plastic container' means any formed or molded part ~~comprised~~ composed
198 predominantly of plastic resin, having a relatively inflexible finite shape or form, and
199 intended primarily as a single-service container with a capacity of eight ounces or more
200 and less than five gallons.

201 ~~(31)~~(47) 'Scrap tire' means a tire that is no longer suitable for its original intended
202 purpose because of wear, damage, or defect.

203 ~~(32) Reserved.~~

204 ~~(33)~~(48) 'Solid waste' means any garbage or refuse; sludge from a waste-water treatment
205 plant, water supply treatment plant, or air pollution control facility; and other discarded
206 material including solid, semisolid, or contained gaseous material resulting from
207 industrial, commercial, mining, and agricultural operations and community activities, ~~but~~

208 This term does not include recovered materials; post-use plastics and nonrecycled
 209 feedstock that are subsequently processed using a pyrolysis or gasification to fuels and
 210 chemicals process; solid or dissolved materials in domestic sewage; solid or dissolved
 211 materials in irrigation return flows or industrial discharges that are point sources subject
 212 to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material
 213 as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

214 ~~(34)~~(49) 'Solid waste handling' means the storage, collection, transportation, treatment,
 215 utilization, processing, or disposal of solid waste or any combination of such activities,
 216 ~~but~~ This term does not include recovered materials processing or pyrolysis or gasification
 217 to fuels and chemicals processes, or the holding of post-use plastics or nonrecycled
 218 feedstock at a pyrolysis facility or gasification to fuels and chemicals facility prior to
 219 processing at the facility where those materials are being held to ensure production is not
 220 interrupted.

221 ~~(35)~~(50) 'Solid waste handling facility' means any facility the primary purpose of which
 222 is the storage, collection, transportation, treatment, utilization, processing, or disposal,
 223 or any combination thereof, of solid waste, but does not include recovered materials
 224 processing facilities or pyrolysis or gasification to fuels and chemicals facilities.

225 ~~(36)~~(51) 'Solid waste thermal treatment technology' means any solid waste handling
 226 facility the purpose of which is to reduce the amount of solid waste to be disposed of
 227 through a process of combustion, with or without the process of waste to energy.

228 ~~(37)~~(52) 'Special solid waste' means any solid waste not otherwise regulated under Part
 229 1 of Article 3 of this chapter, known as the 'Georgia Hazardous Waste Management Act,'
 230 and regulations promulgated under such part originating or produced from or by a source
 231 or generator not subject to regulation under Code Section 12-8-24.

232 ~~(38)~~(53) 'Tire' means a continuous solid or pneumatic rubber covering designed for
 233 encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle
 234 nor a part of the motor vehicle as original equipment.

235 ~~(38.1)~~(54) 'Tire carrier' means any person engaged in collecting or transporting tires,
 236 other than new tires.

237 ~~(39)~~(55) 'Tire retailer' means any person, other than a used motor vehicle parts dealer
 238 licensed in accordance with Chapter 47 of Title 43, engaged in the business of selling
 239 new replacement tires or used tires.

240 ~~(40)~~(56) 'Tire retreader' means any person actively engaged in the business of retreading
 241 scrap tires by scarifying the surface to remove the old surface tread and attaching a new
 242 tread to make a usable tire.

243 ~~(40.1)~~(57) 'Used tire' means a tire which has a minimum of 2/32 inch of road tread and
 244 which is still suitable for its original purpose but is no longer new. A tire retailer shall

245 inventory and market used tires in substantially the same fashion as a new tire and be able
 246 to provide satisfactory evidence to the division that a market for the tire exists and the tire
 247 is in fact being marketed as a used tire. A used tire shall not be considered solid waste.
 248 ~~(41)~~(58) 'Waste to energy facility' means a solid waste handling facility that provides for
 249 the extraction and utilization of energy from municipal solid waste through a process of
 250 combustion.
 251 ~~(42)~~(59) 'Yard trimmings' means leaves, brush, grass clippings, shrub and tree prunings,
 252 discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative
 253 matter resulting from landscaping development and maintenance other than mining,
 254 agricultural, and silvicultural operations."

255 SECTION 2.

256 Said part is further amended by adding a new Code section to read as follows:

257 "12-8-25.6.

258 (a) As used in this Code section, the term 'blackwater river' means a river that has a dark
 259 color due to the high level of dissolved carbon compounds which are the result of the decay
 260 of organic matter from the surrounding marshes and swamps. These waters tend to have
 261 low pH values and low dissolved oxygen levels.

262 (b) Any blackwater river wholly contained within the borders of this state and originating
 263 in the coastal plain, and which flows directly into the ocean, shall be considered a vital area
 264 of the State of Georgia. In order to protect and preserve the natural resources,
 265 environment, and vital areas of this state, no permit or permit modification shall be issued
 266 for any municipal solid waste disposal facility or any coal combustion residual landfill if
 267 any part of the premises proposed for permitting or modification is within three miles of
 268 the highwater mark of a blackwater river wholly contained within the borders of this state
 269 that originates in the coastal plain and which flows directly into the ocean."

270 SECTION 3.

271 Part 3 of Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated,
 272 relating to criminal trespass and damage to property relative to waste control, is amended in
 273 Code Section 16-7-51, relating to definitions, by revising paragraph (1) as follows:

274 "(1) 'Biomedical waste' means that term as defined in paragraph ~~(1.1)~~ (2) of Code Section
 275 12-8-22."

276 SECTION 4.

277 Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
 278 relating to county special purpose local option sales tax, is amended in Code

279 Section 48-8-111, relating to procedure for imposition of tax, resolution or ordinance, notice
280 to county election superintendent, and election, by revising subparagraph (a)(1)(B) as
281 follows:

282 "(B) A capital outlay project or projects in the special district and consisting of a
283 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
284 institution, or other detention facility; a library; a coliseum; local or regional landfill or
285 local or regional solid waste handling facilities facility as defined under paragraph
286 ~~(27.1)~~ (42) or ~~(35)~~ (50) of Code Section 12-8-22, as amended, excluding any solid
287 waste thermal treatment technology facility, including, but not limited to, any facility
288 for purposes of incineration or waste to energy direct conversion; local or regional
289 recovered materials processing facilities as defined under paragraph ~~(26)~~ (40) of Code
290 Section 12-8-22, as amended; or any combination of such projects;"

291

SECTION 5.

292 All laws and parts of laws in conflict with this Act are repealed.