

HOUSE BILL 299

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2002 Regular Session
2lr0182
CF 2lr0181

By: **The Speaker (Administration)**
Introduced and read first time: January 23, 2002
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Solid Waste Management Fund**

3 FOR the purpose of establishing a State Solid Waste Management Fund and solid
4 waste management fee to be paid by certain facilities after a certain date;
5 authorizing the Department of the Environment to impose certain penalties for
6 certain violations; identifying certain sources of revenue for the Fund;
7 authorizing the Fund to be used for certain purposes; authorizing the
8 Department to adopt certain regulations relating to administration of the Fund;
9 requiring the Department to include in a certain annual report information
10 relating to the Fund; authorizing the Department to take certain actions upon a
11 determination that certain dumping or disposal of solid waste has occurred;
12 providing for the reimbursement to the Department of certain costs to the Fund;
13 authorizing the Attorney General to take certain actions to recover certain costs;
14 defining certain terms; and generally relating to solid waste management.

15 BY repealing and reenacting, with amendments,
16 Article - Environment
17 Section 9-201, 9-204(m), and 9-268
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2001 Supplement)

20 BY adding to
21 Article - Environment
22 Section 9-280 through 9-282, inclusive, to be under the new part "Part VII.
23 State Solid Waste Management Fund"
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 2001 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

2 9-201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "First sale" means a sale of a new tire that is not a sale to a wholesaler or
5 out-of-state retailer.

6 (c) "Local health official" means:

7 (1) A health officer or a designee of the health officer; or

8 (2) The Director of the Department of Environmental Protection of
9 Montgomery County or a designee of the Director.10 (d) "Person" includes the federal government, a state, county, municipal
11 corporation, or other political subdivision.

12 (e) "Refuse disposal system" includes:

13 (1) An incinerator;

14 (2) A transfer station;

15 (3) A landfill system;

16 (4) A landfill;

17 (5) A solid waste processing facility; and

18 (6) Any other solid waste acceptance facility.

19 (F) "RESPONSIBLE PARTY" INCLUDES ANY PERSON WHO:

20 (1) BY AGREEMENT, CONTRACT, OR OTHERWISE ARRANGES FOR THE
21 DISPOSAL OF SOLID WASTE;22 (2) ACCEPTS OR ACCEPTED SOLID WASTE FOR TRANSPORT TO A SOLID
23 WASTE ACCEPTANCE FACILITY;24 (3) IS THE OWNER, PERMITTEE, OPERATOR, OR PERSON IN CHARGE OF
25 THE SITE, FACILITY, CONTAINER, VESSEL, OR VEHICLE INVOLVED IN THE IMPROPER
26 DUMPING OR DISPOSAL OF SOLID WASTE; OR27 (4) THROUGH ACT OR OMISSION CAUSES THE IMPROPER DUMPING OR
28 DISPOSAL OF SOLID WASTE.29 [(f)] (G) "Scrap tire" means any tire that no longer is suitable for its original
30 intended purpose by virtue of wear, damage, or defect.

- 1 [(g)] (H) "Scrap tire collection facility" means a place where scrap tires are:
- 2 (1) Deposited by a consumer or a scrap tire hauler; and
- 3 (2) Transferred to another scrap tire collection facility or scrap tire
- 4 recycler.
- 5 [(h)] (I) "Scrap tire hauler" means a person who as part of a commercial
- 6 business:
- 7 (1) Transports scrap tires; and
- 8 (2) Is approved and licensed by the Department to transport scrap tires
- 9 to a scrap tire recycler or a scrap tire collection facility.
- 10 [(i)] (J) "Scrap tire recycler" means a person who is approved and licensed by
- 11 the Department to process scrap tires to a form of raw materials or products that may
- 12 be returned to the marketplace.
- 13 [(j)] (K) "Service" means the Maryland Environmental Service.
- 14 [(k)] (L) "Sewage" means:
- 15 (1) Any human or animal excretion or water-carried domestic waste; or
- 16 (2) A mixture of industrial waste and any of the things in item (1) of this
- 17 subsection.
- 18 [(l)] (M) "Sewage sludge" means any thickened liquid, suspension, settled
- 19 solid, or dried residue that a sewage treatment plant extracts from sewage.
- 20 [(m)] (N) (1) "Sewage sludge generator" means a person who owns or
- 21 operates a facility that receives and processes sewage in this State or produces
- 22 sewage sludge to be utilized in this State.
- 23 (2) "Sewage sludge generator" includes:
- 24 (i) The Washington Suburban Sanitary Commission; and
- 25 (ii) The Maryland Environmental Service.
- 26 (3) "Sewage sludge generator" does not include the owner or operator of
- 27 a septic system.
- 28 [(n)] (O) "Sewage sludge utilization permit" means a permit, issued by the
- 29 Department, to utilize sewage sludge.
- 30 [(o)] (P) (1) "Sewage sludge utilizer" means a person who utilizes sewage
- 31 sludge in this State.
- 32 (2) "Sewage sludge utilizer" includes:

1 (i) The Washington Suburban Sanitary Commission; and

2 (ii) The Maryland Environmental Service.

3 [(p)] (Q) (1) "Sewerage system" means:

4 (i) The channels used or intended to be used to collect and dispose
5 of sewage; and

6 (ii) Any structure or appurtenance used or intended to be used to
7 collect or prepare sewage for discharge into the waters of this State.

8 (2) "Sewerage system" includes any sewer of any size.

9 (3) "Sewerage system" does not include the plumbing system inside any
10 building served by the sewerage system.

11 [(q)] (R) "Store scrap tires" means the accumulation of scrap tires in any form
12 or configuration in excess of 15,000 cubic feet.

13 [(r)] (S) "Tire dealer" means a person who sells new tires to:

14 (1) A seller of tires in the State that is not a tire wholesaler; or

15 (2) A consumer of a tire on which a recycling fee has not been paid.

16 [(s)] (T) "Tire wholesaler" means a person who transfers tires to a person who
17 is not a consumer.

18 [(t)] (U) "Utilize sewage sludge" means to collect, handle, burn, store, treat, or
19 transport sewage sludge to or from a sewage sludge generator or utilizer in this State,
20 to apply it to land, or to dispose of it.

21 [(u)] (V) (1) "Water supply system" means:

22 (i) A source and the surrounding area from which water is supplied
23 for drinking or domestic purposes; and

24 (ii) Any structure, channel, or appurtenance used to prepare water
25 for use or to deliver water to a consumer.

26 (2) "Water supply system" does not include the plumbing system inside
27 any building that is served by the water supply system.

28 9-204.

29 (m) (1) In this subsection, "trade secret" has the meaning provided in §
30 11-1201 of the Commercial Law Article.

31 (2) The Department shall prepare an annual report identifying the
32 amount of solid waste by weight or volume, disposed of in the State during the

1 previous year. AFTER JULY 1, 2003, THE REPORT SHALL INCLUDE INFORMATION
2 RELATING TO THE STATE SOLID WASTE MANAGEMENT FUND AS DESCRIBED IN §
3 9-280 OF THIS SUBTITLE.

4 (3) The report required under paragraph (2) of this subsection shall
5 identify AND INCLUDE:

6 (i) The following solid waste categories:

- 7 1. Construction and demolition debris;
- 8 2. Incinerator ash;
- 9 3. Industrial waste;
- 10 4. Land clearing debris;
- 11 5. Municipal solid waste; and
- 12 6. Any other solid waste identified by the Department;

13 (ii) The amount of solid waste disposed of in the State that is
14 generated outside of the State;

15 (iii) The jurisdictions where the solid waste originated;

16 (iv) The amount of solid waste generated in the State that is
17 transported outside of the State for disposal; [and]

18 (v) An estimate of the amount of solid waste managed or disposed
19 of by:

- 20 1. Recycling;
- 21 2. Composting;
- 22 3. Landfilling; and
- 23 4. Incineration; AND

24 (VI) THE INFORMATION RELATING TO THE STATE SOLID WASTE
25 MANAGEMENT FUND AS DESCRIBED IN § 9-280 OF THIS SUBTITLE, INCLUDING:

26 1. THE TOTAL AMOUNT OF REVENUES COLLECTED AND
27 CREDITED TO THE FUND FOR THE YEAR;

28 2. THE AMOUNT OF MONEY ALLOCATED TO THE
29 DEPARTMENT FROM THE FUND AND HOW THE MONEY WAS USED BY THE
30 DEPARTMENT;

1 3. THE AMOUNT OF MONEY ALLOCATED FOR ASSISTANCE TO
2 SUPPLEMENT FUNDING FOR RECYCLING AND SOLID WASTE MANAGEMENT
3 PROGRAMS;

4 4. HOW THE MONEY ALLOCATED FROM THE FUND FOR
5 ASSISTANCE TO SUPPLEMENT FUNDING FOR RECYCLING AND SOLID WASTE
6 MANAGEMENT PROGRAMS WAS UTILIZED; AND

7 5. THE AMOUNT OF UNALLOCATED MONEY REMAINING IN
8 THE FUND AS OF DECEMBER 31 FOR THE REPORTING YEAR.

9 (4) (i) All permitted solid waste acceptance facilities shall at least
10 annually provide to the Department information that is necessary to prepare the
11 report required under paragraph (2) of this subsection.

12 (ii) Under subparagraph (i) of this paragraph, a facility owner may
13 provide the following information:

14 1. An accounting of the facility's economic benefits provided
15 to the locality where the facility is located;

16 2. The value of disposal and recycling facilities provided to
17 the locality at no cost or reduced cost;

18 3. Direct employment associated with the facility; and

19 4. Other economic benefits resulting from the facility during
20 the preceding calendar year.

21 (5) Beginning September 1, 2000, the Department shall annually
22 submit, in accordance with § 2-1246 of the State Government Article, a report of the
23 activities undertaken and the progress made in accordance with this section to:

24 (i) The House Environmental Matters Committee; and

25 (ii) The Senate [Economic] EDUCATION, HEALTH, and
26 Environmental Affairs Committee.

27 (6) A facility owner is not required to provide information under
28 paragraph (4) of this subsection that is a trade secret.

29 9-268.

30 (A) Except for violations of Part III AND PART VII of this subtitle and violations
31 enforced under § 9-267 of this subtitle, the provisions of §§ 9-334 through [9-342]
32 9-343 of Subtitle 3 of this title shall be used and shall apply to enforce violations of:

33 (1) This subtitle;

34 (2) Any regulation adopted under this subtitle; or

1 (3) Any order or permit issued under this subtitle.

2 (B) FOR VIOLATIONS OF PART VII OF THIS SUBTITLE, THE PROVISIONS OF §§
3 9-334 THROUGH 9-342 OF SUBTITLE 3 OF THIS TITLE SHALL BE USED AND APPLIED
4 TO ENFORCE VIOLATIONS OF:

5 (1) THIS SUBTITLE;

6 (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR

7 (3) ANY ORDER OR PERMIT ISSUED UNDER THIS SUBTITLE.

8 PART VII. STATE SOLID WASTE MANAGEMENT FUND.

9 9-280.

10 (A) THERE IS A STATE SOLID WASTE MANAGEMENT FUND.

11 (B) THE STATE SOLID WASTE MANAGEMENT FUND SHALL CONSIST OF:

12 (1) REVENUES COLLECTED BY THE DEPARTMENT FROM THE SOLID
13 WASTE MANAGEMENT FEE AS DESCRIBED IN PARAGRAPH (G) OF THIS SECTION;

14 (2) MONEYS REIMBURSED TO THE DEPARTMENT IN ACCORDANCE WITH
15 § 9-282 OF THIS SUBTITLE; AND

16 (3) ANY CIVIL OR ADMINISTRATIVE PENALTY PERTAINING TO SOLID
17 WASTE LAWS UNDER § 9-342 OF THIS TITLE OR ANY FINE IMPOSED BY A COURT
18 RESULTING FROM DEPARTMENTAL ACTIONS RELATIVE TO VIOLATIONS OF SOLID
19 WASTE LAWS.

20 (C) MONEYS IN THE STATE SOLID WASTE MANAGEMENT FUND:

21 (1) SHALL BE ALLOCATED FOR:

22 (I) STATEWIDE AND REGIONAL RECYCLING INITIATIVES OF THE
23 DEPARTMENT; AND

24 (II) SOLID WASTE PROGRAM ACTIVITIES RELATING TO
25 INSPECTIONS, PERMITTING, PUBLIC EDUCATION, RECYCLING PROGRAMS
26 IDENTIFIED UNDER THIS TITLE, PLANNING, MARKET DEVELOPMENT, AND DATA
27 MANAGEMENT NEEDS AND ASSOCIATED ADMINISTRATIVE COSTS; AND

28 (2) MAY BE ALLOCATED ANNUALLY, IF AVAILABLE, BEGINNING ON JULY
29 1, 2003, TO SUPPLEMENT FUNDING FOR RECYCLING AND SOLID WASTE
30 MANAGEMENT PROGRAMS THAT ARE CONSISTENT WITH THIS TITLE AND THE STATE
31 PROGRAM.

32 (D) THE DEPARTMENT MAY ADOPT REGULATIONS FOR THE ADMINISTRATION
33 OF THE STATE SOLID WASTE MANAGEMENT FUND FOR SOLID WASTE MANAGEMENT
34 ACTIVITIES AND RECYCLING INITIATIVES OR PROGRAMS.

1 (E) MONEYS CREDITED TO THE STATE SOLID WASTE MANAGEMENT FUND ARE
2 DEDICATED TO THE USES DEFINED IN PARAGRAPH (C) OF THIS SECTION AND,
3 NOTWITHSTANDING ANY LAW TO THE CONTRARY, MAY NOT REVERT TO THE
4 GENERAL FUND.

5 (F) (1) BEGINNING JANUARY 1, 2003, A SOLID WASTE MANAGEMENT FEE
6 SHALL BE PAID TO THE DEPARTMENT ON A QUARTERLY BASIS BY SOLID WASTE
7 ACCEPTANCE FACILITIES.

8 (2) THE SOLID WASTE MANAGEMENT FEE SHALL BE IMPOSED AT THE
9 POINT OF FIRST TRANSFER OF SOLID WASTE TO A PERMITTED SOLID WASTE
10 ACCEPTANCE FACILITY IN THE STATE.

11 (3) THE SOLID WASTE MANAGEMENT FEE TO BE PAID BY A PERMITTED
12 SOLID WASTE ACCEPTANCE FACILITY SHALL BE CALCULATED, ON A FORM PROVIDED
13 BY THE DEPARTMENT, AS THE PER TON RATE TIMES THE TONS OF SOLID WASTE
14 ACCEPTED FOR DISPOSAL BY THE FACILITY FOR THE QUARTERLY PAYMENT PERIOD.

15 (4) THE PER TON RATE USED TO CALCULATE THE SOLID WASTE
16 MANAGEMENT FEE SHALL BE \$1 FOR EACH TON OF SOLID WASTE ACCEPTED FOR
17 DISPOSAL BY A PERMITTED SOLID WASTE ACCEPTANCE FACILITY.

18 (5) THE PERMITTED SOLID WASTE ACCEPTANCE FACILITY SHALL
19 SUBMIT PAYMENT OF THE SOLID WASTE MANAGEMENT FEE ON A QUARTERLY BASIS
20 TO THE DEPARTMENT WITHIN 30 DAYS OF THE END OF THE QUARTER FOR WHICH
21 THE FEE IS CALCULATED.

22 (6) THE FOLLOWING WASTES SHALL BE EXEMPT FROM THE SOLID
23 WASTE MANAGEMENT FEE:

24 (I) INCINERATOR ASH;

25 (II) SCRAP TIRES;

26 (III) SEWAGE SLUDGE;

27 (IV) YARD WASTE; AND

28 (V) RECYCLABLES, INCLUDING WHITE GOODS.

29 (G) MONEY IN THE FUND NOT REQUIRED TO MEET THE DEPARTMENT'S
30 OBLIGATIONS IN THE EXERCISE OF THE DEPARTMENT'S RESPONSIBILITY UNDER
31 THIS SECTION:

32 (1) SHALL BE DEPOSITED WITH THE STATE TREASURER TO THE CREDIT
33 OF THE FUND; AND

34 (2) MAY BE INVESTED AS PROVIDED BY LAW.

35 (H) (1) THE DEPARTMENT SHALL PREPARE AN ANNUAL REPORT ON THE
36 STATUS OF THE STATE SOLID WASTE MANAGEMENT FUND.

1 (2) THE REPORT SHALL CONTAIN THE INFORMATION AS REQUIRED
2 UNDER § 9-204(M)(3) OF THIS SUBTITLE.

3 (3) THE REPORT RELATING TO THE STATUS OF THE STATE SOLID WASTE
4 MANAGEMENT FUND SHALL BE INCLUDED IN THE ANNUAL REPORT REQUIRED
5 UNDER § 9-204(M)(2) OF THIS SUBTITLE.

6 9-281.

7 (A) UPON A DETERMINATION BY THE DEPARTMENT THAT IMPROPER
8 DUMPING OR DISPOSAL OF SOLID WASTE HAS OCCURRED AT A NONPERMITTED SITE,
9 THE DEPARTMENT MAY:

10 (1) ACT TO REMOVE OR ARRANGE FOR THE REMOVAL OF THE SOLID
11 WASTE AND PROVIDE FOR ANY REMEDIAL ACTION NECESSARY TO RESTORE THE
12 SITE IN A MANNER THAT CONTROLS, MINIMIZES, OR ELIMINATES SOURCES OF
13 POTENTIAL POLLUTION; AND

14 (2) TAKE ANY OTHER ACTION THAT THE DEPARTMENT CONSIDERS
15 NECESSARY TO PROTECT THE PUBLIC HEALTH AND WELFARE OR THE
16 ENVIRONMENT.

17 (B) THE DEPARTMENT MAY USE THE UNALLOCATED REVENUES IN THE
18 STATE SOLID WASTE MANAGEMENT FUND TO FUND ANY DEPARTMENT ACTION AS
19 DESCRIBED IN PARAGRAPH (A) OF THIS SECTION.

20 (C) THIS SECTION DOES NOT PROHIBIT THE DEPARTMENT FROM ABATING A
21 NUISANCE UNDER THE PROVISIONS OF TITLE 10 OF THIS ARTICLE.

22 9-282.

23 (A) ALL EXPENDITURES MADE BY THE DEPARTMENT FOR THE COST OF
24 INSPECTION, MONITORING, CLEANUP, AND LEGAL ACTIONS RELATING TO THE
25 REMOVAL AND REMEDIATION OF SOLID WASTE AT SITES IDENTIFIED IN § 9-281 OF
26 THIS SUBTITLE NOT OTHERWISE RECOVERABLE UNDER ANY STATE OR FEDERAL
27 LAWS OR REGULATIONS SHALL BE REIMBURSED TO THE DEPARTMENT BY THE
28 RESPONSIBLE PARTY.

29 (B) RECOVERIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE
30 STATE SOLID WASTE MANAGEMENT FUND.

31 (C) IN ADDITION TO ANY OTHER LEGAL ACTION AUTHORIZED BY THIS
32 SUBTITLE, THE ATTORNEY GENERAL MAY BRING AN ACTION TO RECOVER COSTS
33 AND INTEREST FROM ANY PERSON WHO FAILS TO MAKE REIMBURSEMENT AS
34 REQUIRED UNDER PARAGRAPH (A) OF THIS SECTION.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
36 effect July 1, 2002.