

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 787
Committee Substitute Favorable 4/29/93

Short Title: Permits/Waste Reduction Plans.

(Public)

Sponsors:

Referred to:

April 7, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT, HEALTH,
2 AND NATURAL RESOURCES TO DENY A PERMIT FOR A SANITARY
3 LANDFILL OR A SOLID WASTE INCINERATOR TO AN APPLICANT THAT
4 HAS NOT SUBMITTED AN APPROVED SOLID WASTE MANAGEMENT
5 PLAN.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 130A-294(a) reads as rewritten:

9 "(a) The Department is authorized and directed to engage in research, conduct
10 investigations and surveys, make inspections and establish a statewide solid waste
11 management program. In establishing a program, the Department shall have authority
12 to:

- 13 (1) Develop a comprehensive program for implementation of safe and
14 sanitary practices for management of solid waste;
- 15 (2) Advise, consult, cooperate and contract with other State agencies, units
16 of local government, the federal government, industries and
17 individuals in the formulation and carrying out of a solid waste
18 management program;
- 19 (3) Develop and adopt rules to establish standards for qualification as a
20 waste 'recycling, reduction or resource recovering facility' or as waste
21 'recycling, reduction or resource recovering equipment' for the purpose
22 of special tax classifications or treatment, and to certify as qualifying
23 those applicants which meet the established standards. The standards

1 shall be developed to qualify only those facilities and equipment
2 exclusively used in the actual waste recycling, reduction or resource
3 recovering process and shall exclude any incidental or supportive
4 facilities and equipment;

- 5 (4) Develop a permit system governing the establishment and operation of
6 solid waste management facilities. No permit shall be granted for a
7 sanitary landfill, excluding demolition landfills as defined in the rules
8 of the Commission for Health Services, without the Department
9 receiving the prior approval for such permit from the county where it
10 is to be located, except if it is to be located within the corporate limits
11 or extraterritorial jurisdiction under Article 19 of Chapter 160A of the
12 General Statutes, of a city as defined in G.S. 160A-1(2), from the city
13 where it is to be located or whose jurisdiction it is in. No permit shall
14 be granted for a solid waste management facility having discharges
15 which are point sources until the Department has referred the complete
16 plans and specifications to the Environmental Management
17 Commission and has received advice in writing that the plans and
18 specifications are approved in accordance with the provisions of G.S.
19 143-215.1. If the applicant is a unit of local government, and has not
20 submitted a solid waste management plan that has been approved by
21 the Department pursuant to G.S. 130A-309.09A(b), the Department
22 may deny a permit for a sanitary landfill or a facility that disposes of
23 solid waste by incineration, unless the Commission has not adopted
24 rules pursuant to G.S. 130A-309.29 for local solid waste management
25 plans. In any case where the Department denies a permit for a solid
26 waste management facility, it shall state in writing the reason for
27 denial and shall also state its estimate of the changes in the applicant's
28 proposed activities or plans which will be required for the applicant to
29 obtain a permit.

30 The issuance of permits for sanitary landfills operated by local
31 governments is exempt from the environmental impact statements
32 required by Article 1 of Chapter 113A of the General Statutes, entitled
33 the North Carolina Environmental Policy Act of 1971. All sanitary
34 landfill permits issued to local governments prior to July 1, 1984, are
35 hereby validated notwithstanding any failure to provide environmental
36 impact statements pursuant to the North Carolina Environmental
37 Policy Act of 1971;

- 38 (4a) No permit shall be granted for any public or private sanitary landfill to
39 receive solid non-radioactive waste generated outside the boundaries
40 of North Carolina to be deposited, unless such waste has previously
41 been inspected by the solid waste regulatory agency of that nation,
42 state or territory, characterized in detail as to its contents and certified
43 by that agency to be non-injurious to health and safety. The
44 Commission shall adopt rules to implement this subsection.

- 1 (5) Repealed by Session Laws 1983, c. 795, s. 3.
- 2 (5a) Designate a geographic area within which the collection,
3 transportation, storage and disposal of all solid waste generated within
4 said area shall be accomplished in accordance with a solid waste
5 management plan. Such designation may be made only after the
6 Department has received a request from the unit or units of local
7 government having jurisdiction within said geographic area that such
8 designation be made and after receipt by the Department of a solid
9 waste management plan which shall include:
- 10 a. The existing and projected population for such area;
11 b. The quantities of solid waste generated and estimated to be
12 generated in such area;
13 c. The availability of sanitary landfill sites and the environmental
14 impact of continued landfill of solid waste on surface and
15 subsurface waters;
16 d. The method of solid waste disposal to be utilized and the energy
17 or material which shall be recovered from the waste; and
18 e. Such other data that the Department may reasonably require.
- 19 (5b) Authorize units of local government to require by ordinance, that all
20 solid waste generated within the designated geographic area that is
21 placed in the waste stream for disposal be collected, transported, stored
22 and disposed of at a permitted solid waste management facility or
23 facilities serving such area. The provisions of such ordinance shall not
24 be construed to prohibit the source separation of materials from solid
25 waste prior to collection of such solid waste for disposal, or prohibit
26 collectors of solid waste from recycling materials or limit access to
27 such materials as an incident to collection of such solid waste;
28 provided such prohibitions do not authorize the construction and
29 operation of a resource recovery facility unless specifically permitted
30 pursuant to an approved solid waste management plan. If a private
31 solid waste landfill shall be substantially affected by such ordinance
32 then the unit of local government adopting the ordinance shall be
33 required to give the operator of the affected landfill at least two years
34 written notice prior to the effective date of the proposed ordinance.
- 35 (5c) Except for the authority to designate a geographic area to be serviced
36 by a solid waste management facility, delegate authority and
37 responsibility to units of local government to perform all or a portion
38 of a solid waste management program within the jurisdictional area of
39 the unit of local government; provided that no authority over or control
40 of the operations or properties of one local government shall be
41 delegated to any other local government.
- 42 (5d) Require that an annual report of the implementation of the solid waste
43 management plan within the designated geographic area be filed with
44 the Department.

1 (6) The Department is authorized to charge and collect fees from operators
2 of hazardous waste disposal facilities. The fees shall be used to
3 establish a fund sufficient for each individual facility to defray the
4 anticipated costs to the State for monitoring and care of the facility
5 after the termination of the period during which the facility operator is
6 required by applicable State and federal statutes, regulations or rules to
7 remain responsible for post-closure monitoring and care. In
8 establishing the fees, consideration shall be given to the size of the
9 facility, the nature of the hazardous waste and the projected life of the
10 facility.

11 (7) Establish and collect annual fees from generators and transporters of
12 hazardous waste, and from storage, treatment, and disposal facilities
13 regulated under this Article as provided in G.S. 130A-294.1."

14 Sec. 2. This act becomes effective July 1, 1993, and applies to applications
15 for permits submitted on or after that date.