

CHAPTER 292

HEALTH AND ENVIRONMENT

HOUSE BILL 01-1387

BY REPRESENTATIVE(S) Snook, Lee, Mitchell, Paschall, Rippey, Romanoff, Sanchez, Smith, Webster, Weddig, and Witwer;
also SENATOR(S) Entz.

AN ACT

CONCERNING MEASURES DESIGNED TO MITIGATE HAZARDS ORIGINATING FROM SOLID WASTE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-16-104.5 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

25-16-104.5. Solid waste user fee - imposed - rate - direction - repeal. (1) On and after January 1, 1986, there is hereby imposed a user fee upon each person disposing of solid waste at an attended solid wastes disposal site. The fee is intended to be a charge to waste producers in addition to any charges specified by contract. Such fee shall be collected by the operator of such site or facility at the time of disposal and shall be imposed and passed through to waste producers and other persons at the following rate, or at an equivalent rate established by the department:

(a) ~~Seven~~ SIX cents per load transported by a motor vehicle ~~which~~ THAT is commonly used for the noncommercial transport of persons over the public highways;

(b) ~~Thirteen~~ ELEVEN cents per load transported by a truck, as such term is defined in section 42-1-102 (108), C.R.S., ~~which~~ THAT is commonly used for the noncommercial transport of persons and property over the public highways;

(c) ~~Twenty~~ SEVENTEEN cents per cubic yard per load transported by any commercial vehicle or other vehicle not included in paragraph (a) or (b) of this subsection (1).

(2) (a) All fee money collected by operators of solid waste disposal sites or facilities pursuant to subsection (1) of this section shall be transmitted by the last day of the month following the end of each calendar quarter to the state treasurer, who

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

shall credit ~~seventy-five~~ SEVENTY percent of such moneys to the hazardous substance response fund created in section 25-16-104.6 and ~~twenty-five~~ THIRTY percent to the solid waste management fund created in section 30-20-118, C.R.S., for the department's appropriation for solid waste management.

(b) AT THE END OF EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER ANY MONEYS IN THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118, C.R.S., THAT EXCEED SIXTEEN AND ONE-HALF PERCENT OF THE MONEYS EXPENDED FROM SUCH FUND DURING THE FISCAL YEAR TO THE HAZARDOUS SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6.

~~(3) (a) Each operator imposing a local government solid waste disposal fee which is used~~ IN LIEU OF THE FEES IMPOSED PURSUANT TO SUBSECTION (1), THE FOLLOWING FEES SHALL BE IMPOSED UPON EACH PERSON DISPOSING OF SOLID WASTE AT AN ATTENDED SOLID WASTE DISPOSAL SITE WHERE A LOCAL GOVERNMENT SOLID WASTE DISPOSAL FEE IS IMPOSED to fund hazardous substance response activities at sites designated on the national priority list pursuant to the federal act: ~~shall be allowed a credit against the total amount of fees to be transmitted to the state treasurer pursuant to this section in an amount equal to the total amount of money derived from such locally imposed solid waste disposal fee. Any local government expending money under the national contingency plan for hazardous substance response activities at sites designated on the national priority list pursuant to the federal act shall be allowed a credit for such expenditures against the total amount of fees imposed on such local government pursuant to subsection (1) of this section.~~

(I) SEVEN CENTS PER LOAD TRANSPORTED BY A MOTOR VEHICLE THAT IS COMMONLY USED FOR THE NONCOMMERCIAL TRANSPORT OF PERSONS OVER THE PUBLIC HIGHWAYS;

(II) THIRTEEN CENTS PER LOAD TRANSPORTED BY A TRUCK, AS SUCH TERM IS DEFINED IN SECTION 42-1-102 (108), C.R.S., THAT IS COMMONLY USED FOR THE NONCOMMERCIAL TRANSPORT OF PERSONS AND PROPERTY OVER THE PUBLIC HIGHWAYS;

(III) TWENTY CENTS PER CUBIC YARD PER LOAD TRANSPORTED BY ANY COMMERCIAL VEHICLE OR OTHER VEHICLE NOT INCLUDED IN PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF THIS SECTION.

(b) TWENTY-FIVE PERCENT OF THE MONEYS COLLECTED UNDER THIS SUBSECTION (3) SHALL BE TRANSMITTED BY THE LAST DAY OF THE MONTH FOLLOWING THE END OF EACH CALENDAR QUARTER TO THE STATE TREASURER, WHO SHALL CREDIT SUCH MONEYS TO THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118, C.R.S. EACH OPERATOR OF A SOLID WASTE DISPOSAL SITE REFERRED TO IN PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL THEN BE ALLOWED A CREDIT FOR THE REMAINING BALANCE OF THE MONEYS COLLECTED UNDER THIS SUBSECTION TO THE EXTENT THAT SUCH MONEYS COMPRISE THE LOCAL GOVERNMENT SOLID WASTE DISPOSAL FEE THAT IS USED TO FUND THE RESPONSE ACTIVITIES OF PARAGRAPH (a) OF SUBSECTION (3). TO THE EXTENT THAT THE BALANCE OF MONEYS COLLECTED UNDER THIS SUBSECTION IS NOT USED TO FUND SUCH RESPONSE ACTIVITIES, THEY SHALL BE CREDITED TO THE HAZARDOUS SUBSTANCE RESPONSE FUND CREATED IN SECTION 25-16-104.6.

SECTION 2. 30-20-101 (2.7), Colorado Revised Statutes, is amended, and the said 30-20-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

30-20-101. Definitions. As used in this part 1, unless the context otherwise requires:

(2.7) ~~"Municipality" means a home rule or statutory city, town, or city and county or a territorial charter city.~~ "LANDFILL GASES" MEANS GASES FORMED BY THE DECOMPOSITION OF BURIED SOLID WASTE. LANDFILL GASES INCLUDE, BUT ARE NOT LIMITED TO, METHANE.

(2.8) "MUNICIPALITY" MEANS A HOME RULE OR STATUTORY CITY, TOWN, OR CITY AND COUNTY OR A TERRITORIAL CHARTER CITY.

SECTION 3. Part 1 of article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-20-120. Imminent and substantial endangerment from solid waste - definition - repeal. (1) AS USED IN THIS SECTION, "IMMINENT AND SUBSTANTIAL ENDANGERMENT FROM SOLID WASTE" MEANS:

(a) CONDITIONS INVOLVING LANDFILL GASES, GROUND WATER CONTAMINATION, LANDFILL LEACHATE, OR DISCHARGES TO SURFACE WATER; AND

(b) PHYSICAL HAZARDS ORIGINATING FROM SOLID WASTE THAT PRESENT A THREAT TO PUBLIC HEALTH AND SAFETY OR THE ENVIRONMENT.

(2) (a) THE DEPARTMENT IS AUTHORIZED TO EXPEND MONEYS FROM THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118 TO RESPOND TO AND MITIGATE IMMINENT AND SUBSTANTIAL ENDANGERMENT FROM SOLID WASTE.

(b) WHEN EXPENDING ANY MONEYS PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL GIVE PRIORITY TO MITIGATING THE IMMINENT NATURE OF THE ENDANGERMENT INSTEAD OF EXPENDING MONEYS FOR CHARACTERIZING THE ENDANGERMENT. THE DEPARTMENT SHALL USE ITS BEST EFFORTS TO MINIMIZE MONEYS EXPENDED FOR CHARACTERIZING THE ENDANGERMENT.

(3) THE DEPARTMENT SHALL NOT PURSUE AN ACTION UNDER THE "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980", 42 U.S.C. SEC. 9601 TO 9675, TO SEEK RECOVERY OF ITS COSTS INCURRED PURSUANT TO THIS SECTION.

(4) AT ANY REASONABLE TIME, IN ORDER TO IMPLEMENT THIS SECTION, THE DEPARTMENT, UPON CONSENT OR UPON OBTAINING A SEARCH WARRANT, SHALL HAVE FREE AND UNIMPEDED ACCESS TO ALL PROPERTY THAT IS THE SITE OF THE SOLID WASTE, INCLUDING ALL BUILDINGS, YARDS, WAREHOUSES, AND STORAGE FACILITIES ON SUCH PROPERTY IN WHICH IT IS REASONABLY BELIEVED THAT AN IMMINENT AND SUBSTANTIAL ENDANGERMENT FROM SOLID WASTE EXISTS.

(5) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO SITES REGULATED BY

THE OIL AND GAS CONSERVATION COMMISSION, CREATED BY SECTION 34-60-104, C.R.S., OR THE OIL INSPECTION SECTION OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, PURSUANT TO ARTICLE 20 OF TITLE 8, C.R.S.

(6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CONSTITUTE A WAIVER OF IMMUNITY THAT IS OTHERWISE APPLICABLE TO THE DEPARTMENT OR ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES.

(7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2004.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the solid waste management fund created in section 30-20-118, Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2001, the sum of two hundred fifty thousand dollars (\$250,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 5. Effective date. This act shall take effect July 1, 2001.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2001