

CHAPTER 220

**HEALTH AND ENVIRONMENT**

SENATE BILL 03-280

BY SENATOR(S) Teck, Owen, and Reeves;  
also REPRESENTATIVE(S) Witwer, Plant, and Young.

**AN ACT**

**CONCERNING THE HAZARDOUS SUBSTANCE RESPONSE FUND, AND, IN CONNECTION THEREWITH,  
MAKING AN APPROPRIATION.**

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

**SECTION 1.** 25-16-104.6 (2.5), Colorado Revised Statutes, is amended to read:

**25-16-104.6. Fund established - administration - revenue sources - use.**

(2.5) Moneys in the hazardous substance response fund created pursuant to this section ~~shall not~~ MAY be appropriated AS PROVIDED IN SECTION 25-16-104.5 (3.5) AND AS FOLLOWS:

(a) To finance any litigation ARISING UNDER THIS PART 1 OR THE FEDERAL ACT on behalf of the state, ~~except that the general assembly may make appropriations~~ UP TO THE LEVEL OF REVENUE GENERATED BY THE FEE ESTABLISHED BY SECTION 25-16-104.5 (3.5) (a). LITIGATION EXPENSES UNDER THIS PARAGRAPH (a) THAT EXCEED SUCH LEVEL OF REVENUE AND THE ADDITION OF NEW SITES APPLICABLE UNDER THE FEDERAL ACT OR THIS PART 1 SHALL REQUIRE APPROPRIATIONS FROM THE GENERAL FUND.

(b) For the enforcement of court-approved remedies under the federal act out of moneys in the hazardous substance response fund received for future response costs, excluding fines, under the federal act.

**SECTION 2.** 25-16-104.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-16-104.5. Solid waste user fee - imposed - rate - direction - repeal.**

(3.5) (a) IN ADDITION TO ANY OTHER FEE IMPOSED BY THIS SECTION, ON AND AFTER

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

JULY 1, 2003, THERE IS HEREBY IMPOSED A FEE TO BE APPLIED TO REIMBURSE THE DEPARTMENT OF LAW FOR ITS UNRECOVERED COSTS ASSOCIATED WITH LITIGATION AND RESPONSE ACTIVITIES UNDER THE FEDERAL ACT. SUCH FEE SHALL BE COLLECTED BY THE OPERATOR OF AN ATTENDED SOLID WASTE DISPOSAL 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 OF PUBLIC HEALTH AND ENVIRONMENT:

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

(II) ONE CENT 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) TWO CENTS PER CUBIC YARD PER LOAD TRANSPORTED BY ANY COMMERCIAL VEHICLE OR OTHER VEHICLE NOT INCLUDED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a).

(b) ALL FEE MONEY COLLECTED BY OPERATORS OF SOLID WASTE DISPOSAL SITES OR FACILITIES PURSUANT TO THIS SUBSECTION (3.5) SHALL BE TRANSMITTED BY THE LAST DAY OF THE MONTH FOLLOWING THE END OF EACH CALENDAR QUARTER TO THE STATE TREASURER, WHO SHALL CREDIT ONE HUNDRED PERCENT OF SUCH MONEYS TO THE HAZARDOUS SUBSTANCE RESPONSE FUND CREATED UNDER SECTION 25-16-104.6.

(c) (I) THIS SUBSECTION (3.5) IS REPEALED, EFFECTIVE JULY 1, 2006.

(II) IF THE REPEAL OF THIS SUBSECTION (3.5) HAS NOT BEEN EXTENDED UNTIL AFTER JULY 1, 2006, ANY APPROPRIATION TO THE DEPARTMENT OF LAW FROM THE HAZARDOUS SUBSTANCE RESPONSE FUND THAT HAS NOT BEEN RECOVERED BY THE DEPARTMENT OF LAW AND REPAID TO THE HAZARDOUS SUBSTANCE RESPONSE FUND SHALL BE FUNDED THROUGH THE GENERAL FUND.

**SECTION 3. Appropriation - adjustments in 2003 long bill.** (1) In addition to any other appropriation, there is hereby appropriated to the department of public health and environment, hazardous materials and waste management division, for the fiscal year beginning July 1, 2003, the sum of five hundred three thousand two hundred fifty-eight dollars (\$503,258) from the hazardous substance response fund created pursuant to section 25-16-104.6 (1) (a), Colorado Revised Statutes, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act to the department of law for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(a) The general fund appropriation to the administration division is reduced by twenty-five thousand nine hundred two dollars (\$25,902).

(b) The cash funds exempt appropriation to the administration division is increased

by twenty-five thousand nine hundred two dollars (\$25,902). Such sum shall be transferred from the department of public health and environment, hazardous materials and waste management division, out of the appropriation made in subsection (1) of this section.

(c) The general fund appropriation to the water and natural resources division for litigation related to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" is reduced by two hundred ninety-two thousand three hundred fifty-six dollars (\$292,356).

(d) The cash funds exempt appropriation to the water and natural resources division for litigation related to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" is increased by two hundred ninety-two thousand three hundred fifty-six dollars (\$292,356). Such sum shall be transferred from the department of public health and environment, hazardous materials and waste management division, out of the appropriation made in subsection (1) of this section.

(e) The general fund appropriation to the water and natural resources division for contracts related to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" is reduced by one hundred eighty-five thousand dollars (\$185,000).

(f) The cash funds exempt appropriation to the water and natural resources division for contracts related to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" is increased by one hundred eighty-five thousand dollars (\$185,000). Such sum shall be transferred from the department of public health and environment, hazardous materials and waste management division, out of the appropriation made in subsection (1) of this section.

**SECTION 4. 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: May 1, 2003