

HB 699-FN

STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand
nine hundred and ninety-one

AN ACT

relative to solid waste reduction.

Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:

1 1 New Chapter; Solid Waste Reduction. Amend RSA by inserting after
2 chapter 149-N the following new chapter:

3 CHAPTER 149-0

4 SOLID WASTE REDUCTION

5 149-0:1 Statement of Policy. It is recognized that the state of New
6 Hampshire is depleting its space suitable for disposal of waste; that all
7 waste disposal sites pose a potential threat to the environment and water
8 supply; that improper use of existing disposal facilities is a threat to
9 public health, safety, and the environment; and that siting future disposal
10 locations is a critical issue in waste management planning.

11 149-0:2 Purpose. The state of New Hampshire hereby declares that the
12 state solid waste management policy shall be dedicated to decreasing the
13 threat to public health and the environment by minimizing the practice of
14 landfilling of solid waste through encouragement of voluntary recycling and
15 waste separation programs, by providing for greater enforcement of
16 restrictions on landfill dumping to ensure maximum safety in landfill
17 disposal practices, and by providing for bonding of landfill facilities to
18 provide ongoing protection from the dangers associated with landfill

practices.

149-0:3 Definitions. In this chapter:

I. "Beverage" means beer or other malt beverages and mineral waters, soda water, and similar soft drinks in liquid form and intended for human consumption, whether or not carbonated, including the following: alcoholic beverages other than malt beverages; uncarbonated water; soups; fluid milk products; natural, reconstituted, or frozen fruit, vegetable, or meat juices; and liquids intended for medicinal purposes only.

II. "Beverage container" means the individual, separate, sealed glass, metal, or plastic bottle, can, jar, or carton containing a beverage.

III. "Consumer" means every person who purchases a beverage in a beverage container for use or consumption, or who returns a beverage container to a recycling center.

IV. "Container" means the individual, separate, sealed, glass, plastic, aluminum or nonaluminum metal, bottle, can, jar, or carton, which shall include but not be limited to, the following:

(a) Containers that are identical or similar to beverage containers, as defined in paragraph II.

(b) Food and drink containers made from high density plastic.

(c) All polystyrene (styrofoam) containers which shall include but not be limited to: fast food packaging, coffee cups, and packaged soup containers.

(d) All aseptic, or boxed juice, containers.

V. "Dealer" means every person in this state who engages in the sale of containers to a consumer.

VI. "Department" means the department of environmental services.

VII. "Director" means the director of the division of waste management.

VIII. "Distributor" means every person who engages in the bottling, packaging or sale, or any combination thereof, of containers to a dealer in this state, including any manufacturer who engages in such sales.

IX. "District" means a solid waste management district established under 149-M:18.

X. "Division" means the division of waste management, department of environmental services.

XI. "Facility" means that area or structure, including a landfill, at which solid waste is collected or disposed of.

XII. "Manufacturer" means every person producing any type of beverage containers for sale to distributors or dealers.

XIII. "Recycling center" means any facility which is established pursuant to RSA 149-O:8.

XIV. "Separated waste" means solid waste which has been sorted or collected apart from the general body of waste, and which would be economically and commercially feasible to reuse in its present form or would be economically and commercially feasible to process for use for other purposes.

XV. "Source of waste" means the location at which the waste is generated, collected, or transferred to a waste hauler for disposal in a facility.

XVI. "Use or consumption" includes the exercise of any right or

power over a container incident to the ownership of such container, other than the sale or the keeping or retention of a container for the purposes of sale.

149-0:4 Labeling Containers. Every beverage container sold or offered for sale in this state shall clearly indicate in letters of not less than 1/4 inch type size by embossing or by a stamp or by a label or other method securely affixed to the beverage container the following:

I. The refund value of \$.05, as established by RSA 149-0:7, II.

II. Either the words "New Hampshire" or the abbreviation "N.H.".

149-0:5 Administration and Enforcement. The department of environmental services shall administer and enforce this chapter through the division of waste management. The division shall establish a landfill reduction and recycling program to be financed by surcharges on disposal fees at all solid waste disposal facilities. The director shall adopt rules, under RSA 541-A, relative to:

I. Methods and procedures for inspection and testing of sources of solid waste.

II. Standards and procedures for certification of the segregation and recycling of a municipality's solid waste to qualify the municipality for a reduction of the state surcharge imposed under RSA 149-0:6.

III. Procedures for the imposition of state surcharges on member and non-member users of solid waste disposal facilities.

IV. Collection and recordkeeping of surcharges provided for under this chapter.

V. Procedures for disbursements from the waste management fund and

1 the incentive fund.

2 VI. Procedures for application and review of municipal waiver
3 requests from the state surcharge imposed under RSA 149-0:6.

4 VII. Procedures for waivers established for municipalities and
5 private businesses.

6 VIII. Bonding requirements and rates.

7 IX. Emergency closing powers and other enforcement procedures,
8 including notice and hearing requirements.

9 X. Other rules necessary to administer this chapter.

10 149-0:6 State Surcharge for Disposal.

11 I. There is levied on containers which are sold to any retailer in
12 the state by a wholesaler a surcharge of \$.07 per item. The surcharge
13 shall be paid by the wholesaler to the treasurer of the state to be
14 deposited in the waste management fund under RSA 149-0:11 or the incentive
15 fund under RSA 149-0:12. The surcharge shall be increased or decreased as
16 follows:

17 (a) When the recycling rate in the state is less than 40 percent
18 it shall be increased to \$.10.

19 (b) If the recycling rate in the state is over 40 percent, then
20 the rate shall decrease \$.01 for every 10 percent above the 40 percent.

21 II. Each wholesaler shall be permitted to add the amount of the
22 surcharge to the wholesale price of the item.

23 III. As of the effective date of this act each dealer shall be
24 permitted to add the surcharge to the retail price of the item.

25 IV. Each consumer shall be entitled to a refund of \$.05 of the

1 the incentive fund.

2 VI. Procedures for application and review of municipal waiver
3 requests from the state surcharge imposed under RSA 149-0:6.

4 VII. Procedures for waivers established for municipalities and
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22 surcharge to the wholesale price of the item.

23 III. As of the effective date of this act each dealer shall be
24 permitted to add the surcharge to the retail price of the item.

25 IV. Each consumer shall be entitled to a refund of \$.05 of the

surcharge when any container is recycled at any approved recycling center.

2 V. Any solid waste district may establish and operate a recycling
3 center under RSA 149-0:8 which may be reimbursed from the incentive fund
4 established in RSA 149-0:12 and shall pay a \$.05 refund to the consumer who
5 returns a container.

6 149-0:7 Inspections. The division is authorized to conduct inspection
7 and testing of waste disposal material at its source to determine the
8 extent of source separation and recycling or violation of waste disposal
9 rules for the purposes of the partial reduction of the state surcharge
10 under RSA 149-0:6. The department is authorized to assess the waste
11 generator the cost of such inspection. The division may conduct
12 reinspections as often as necessary, but at least once a year.

3 149-0:8 Recycling Centers.

14 I. Any municipality or a refuse disposal district established under
15 RSA 53-B may establish and operate a recycling center. In areas not served
16 by a municipal or district recycling center, the director may license any
17 person to establish and operate a recycling center. Each center shall
18 accept all containers, properly labeled under RSA 149-0:4 and approved as
19 eligible by the director, presented for refund by a consumer.

20 II. Each center shall pay to the consumer a refund of \$.05 per
21 eligible container presented for refund.

22 III. All containers collected by a recycling center, for which the
23 \$.05 has been paid to a consumer, shall become the property of the
24 recycling center. Each center shall, with the approval of the director,
25 contract for the recycling of containers collected by such center.

1 149-0:9 Exemptions from Surcharges. If materials to be recycled or
2 materials which have been segregated are moved to a solid waste disposal
3 center for more efficient handling, they shall be exempt from the
4 surcharges imposed under this chapter. However, if such segregated
5 materials or materials for recycling are subsequently disposed of in a
6 center in this state, the surcharges under this chapter shall apply.

7 149-0:10 Bond Required.

8 I. In order to assure that the burden of cleanup, protection of
9 aquifers, and protection of the public interest will not be left solely and
10 unfairly upon the town or city in which the center is located if a center
11 is closed or abandoned and problems occur, every operator or owner of a
12 center shall either provide a bond or demonstrate taxing authority to
13 secure the payment of costs of cleanup, should it become necessary within
14 50 years after closure or abandonment.

15 II. The bonds shall be issued by a surety company authorized to
16 engage in that business in the state.

17 III. The amount of the bond shall be based upon the total amount of
18 waste accumulated in the center, either in tons or cubic yards as
19 determined by the division, as of December 31 of each year as reported by
20 the operator or owner of the center. This amount shall be no less than the
21 initial volume of waste in the facility, plus that shown in the monthly
22 returns.

23 IV. The initial minimum bond shall be \$10,000,000 regardless of
24 center size, except that a higher initial bonding amount shall be set by
25 the division upon determination that it is warranted by the size of the

1 facility in tons or cubic yards. Under special situations as established
2 by rule, the division may authorize a lower amount after public hearing for
3 disposal sites operated by private business for their sole use for disposal
4 of wastes generated by that business.

5 V. Paid-up coverage under the bond shall extend for a period of 50
6 years after closure or abandonment of the solid waste disposal center. For
7 purposes of this chapter this shall be assumed to be 50 years from
8 January 1 of the year of closure or abandonment.

9 VI. A bond shall be extended by the owner or operator on January 1
10 of each year for an additional year so that the period covered into the
11 future is never less than 49 years. The amount of the bond shall be
12 increased each year to cover the additional quantity of waste disposed of
13 in the center during the year. The total amount of the bond shall be
14 increased annually to cover larger expenditures for cleanup due to
15 inflation. For this purpose the annual inflation rate means the increase
16 in the consumer price index, issued by the United States Department of
17 Labor, Bureau of Labor Statistics, for the month of November. The division
18 shall advise the owners or operators of this figure no later than December
19 15 each year.

20 VII. Upon written request by an owner or operator, the division may
21 extend the January 1 date by 30 days, and a second extension may also be
22 granted. After 60 days a civil penalty of no more than \$1,000 per day
23 multiplied by the tonnage of waste in the facility shall be assessed for
24 each day the bond is not extended. If after 180 days the bond still has
25 not been extended as required by this paragraph, the state shall close the

1 facility to further deposit of waste. The facility shall not be reopened
2 after such closure until after 3 public hearings and a finding by the
3 division that reopening is in the public interest.

4 VIII. Solid waste disposal districts established under RSA 147-M:18
5 shall not be required to furnish bonds if they can demonstrate in writing
6 to the satisfaction of the division that the participating towns and cities
7 are committed by contract with the district to payment of their share of
8 any cleanup costs occurring after closure or abandonment of the center.

9 IX. A state-wide bonding rate per ton or cubic yard shall be
10 established by the division by rule based on the average costs experienced
11 and projected for cleanup and public protection of currently closed waste
12 disposal sites within the state. This rate may be increased by the
13 division for any waste disposal facility in a location adjacent to an
14 aquifer or which because of the geology of the area may pose a future
15 threat or problem to the water supply.

16 149-0:11 Waste Management Fund. Ninety percent of the state surcharges
17 collected under RSA 149-0:6 shall be deposited into a waste management
18 fund, to be used exclusively for solid waste management. The division
19 shall administer the fund. Purposes for which the fund may be used
20 include, but are not limited to, conducting surveys and investigations of
21 solid waste centers or other locations where it is believed waste may have
22 been improperly disposed of, actions that may arise from such surveys and
23 investigations, testing wastes, demonstrating or testing new methods or
24 procedures of waste handling or disposal, enforcement actions, purchase of
25 equipment and hiring of personnel related directly to waste management,

assisting waste disposal districts and local community activities, and such other activities with regard to waste disposal as may be required to protect the public interest.

149-0:12 Incentive Fund Established. Ten percent of the state surcharges collected under RSA 149-0:6 shall be set aside as a municipal and waste disposal district incentive fund to be distributed as grants to municipalities, whether inside or outside the state, and to New Hampshire waste disposal districts. The division shall administer the fund. Applications for grants shall be accepted by the division only from municipalities and New Hampshire waste disposal districts and shall be awarded on a competitive basis. A grant may be made for any proposal that the division has reason to believe will reduce the solid waste flow in this state. A grant may be for more than one year but there must be clear measures of performance and accomplishment for second and subsequent years and a provision for termination if these are not met. The incentive fund shall cease to exist on December 31, 2000, and any moneys in the fund at that time shall lapse to the general fund.

149-0:13 Grant Reports. On January 1, 1995, and annually thereafter, a report on grants made by the division shall be presented to the speaker of the house, the president of the senate, and to the governor. At a minimum, the report shall list the grants made and the amount of each grant, describe the grants' objectives, indicate what was achieved, and provide an evaluation.

2 New Subparagraph; Waste Funds. Amend RSA 6:12, I by inserting after subparagraph (mm) the following new subparagraph:

1 (nn) Moneys received under RSA 149-0:6, which shall be deposited
2 in the waste management fund and the incentive fund, as provided in
3 RSA 149-0:11 and 12, and moneys received under RSA 149-0:7, which shall be
4 returned to solid waste management districts in accordance with RSA 149-0:6.

5 3 Effective Date. This act shall take effect January 1, 1992.
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HB 699-FN

LBAO
LSR 91-0448
2/8/91

FISCAL NOTE for an act relative to solid waste reduction.

FISCAL IMPACT:

The Department of Environmental Services indicates that this bill will increase state revenues by \$39,500,000 in FY 1992 and \$79,000,000 each fiscal year thereafter. State expenditures will increase by \$30,504 in FY 1992, by \$62,882 in FY 1993, by \$65,954 in FY 1994 and by \$69,073 in FY 1995 for administrative costs. County and local expenditures will increase by an undeterminable amount. County and local revenues will increase by an undeterminable amount. In addition, this bill also deposits all revenues into restricted funds, the Waste Management Fund and the incentive fund, to be expended by the Department for the purposes contained in this act.

METHODOLOGY:

The Department states that approximately 1 million tons of solid waste are disposed in New Hampshire annually, and the state population of 1,000,000 uses 2 beverage containers per person each day or 2,000,000 annually. Revenues are calculated by multiplying waste produced times the assumed fees or $[(1,000,000 \times \$6) + (2,000,000 \times \$.10)]$. State administration expenditures are for (1) Waste Management Specialist IV, LG 23; (1) Attorney I, LG 23; (1) Accountant III, LG 20; associated benefits, office expense and first year office equipment costs.

Counties and towns will pay more for solid waste disposal surcharge, but solid waste districts are entitled to reimbursement from the incentive fund.

The disposal surcharge is assumed at \$6 per ton, and the current surcharge fee of \$.10 was applied to the calculation for the container surcharge.