

HOUSE BILL No. 2738

By Committee on Environment

1-29

AN ACT concerning solid waste; relating to construction and demolition landfills; amending K.S.A. 2001 Supp. 65-3402 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

(b) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

(c) "Solid waste processing facility" means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.

(d) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing or municipal operations. "Solid waste disposal area" includes all property described or included within any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency.

1 (f) "Waters of the state" means all streams and springs, and all bodies
2 of surface or groundwater, whether natural or artificial, within the bound-
3 aries of the state.

4 (g) "Secretary" means the secretary of health and environment.

5 (h) "Department" means the Kansas department of health and
6 environment.

7 (i) "Disposal" means the discharge, deposit, injection, dumping, spill-
8 ing, leaking or placing of any solid waste into or on any land or water so
9 that such solid waste or any constituent thereof may enter the environ-
10 ment or be emitted into the air or discharged into any water.

11 (j) "Open dumping" means the disposal of solid waste at any solid
12 waste disposal area or facility which is not permitted by the secretary
13 under the authority of K.S.A. 65-3407, and amendments thereto, or the
14 disposal of solid waste contrary to rules and regulations adopted pursuant
15 to K.S.A. 65-3406, and amendments thereto.

16 (k) "Generator" means any person who produces or brings into ex-
17 istence solid waste.

18 (l) "Monitoring" means all procedures used to (1) systematically in-
19 spect and collect data on the operational parameters of a facility, an area
20 or a transporter, or (2) to systematically collect and analyze data on the
21 quality of the air, groundwater, surface water or soils on or in the vicinity
22 of a solid waste processing facility or solid waste disposal area.

23 (m) "Closure" means the permanent cessation of active disposal op-
24 erations, abandonment of the disposal area, revocation of the permit or
25 filling with waste of all areas and volume specified in the permit and
26 preparing the area for the long-term care.

27 (n) "Postclosure" means that period of time subsequent to closure of
28 a solid waste disposal area when actions at the site must be performed.

29 (o) "Reclamation facility" means any location at which material con-
30 taining a component defined as a hazardous substance pursuant to K.S.A.
31 65-3452a and amendments thereto or as an industrial waste pursuant to
32 this section is processed.

33 (p) "Designated city" means a city or group of cities which, through
34 interlocal agreement with the county in which they are located, is dele-
35 gated the responsibility for preparation, adoption or implementation of
36 the county solid waste plan.

37 (q) "Nonhazardous special waste" means any solid waste designated
38 by the secretary as requiring extraordinary handling in a solid waste dis-
39 posal area.

40 (r) "Recyclables" means any materials that will be used or reused, or
41 prepared for use or reuse, as an ingredient in an industrial process to
42 make a product, or as an effective substitute for a commercial product.
43 "Recyclables" includes, but is not limited to, paper, glass, plastic, munic-

1 ipal water treatment residues, as defined by K.S.A. 65-163 and amend-
2 ments thereto, and metal, but does not include yard waste.

3 (s) “Scrap material processing industry” means any person who ac-
4 cepts, processes and markets recyclables.

5 (t) “Scrap material recycling and processing facility” means a fixed
6 location that utilizes machinery and equipment for processing only
7 recyclables.

8 (u) (1) “Construction and demolition waste” means solid waste re-
9 sulting from the construction, remodeling, repair and demolition of struc-
10 tures, roads, sidewalks and utilities, *and similar activities*; untreated wood
11 and untreated sawdust from any source; solid waste consisting of motor
12 vehicle window glass; and solid waste consisting of vegetation from land
13 clearing and grubbing, utility maintenance, and seasonal or storm-related
14 cleanup. Such wastes include, but are not limited to, bricks, concrete and
15 other masonry materials, roofing materials, soil, rock, wood, wood prod-
16 ucts, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical
17 wiring, electrical components containing no hazardous materials, *caulking*
18 *tubes*, nonasbestos insulation ~~and~~, construction related packaging, *lunch*
19 *bags, cups, boxes, bottles and newspapers resulting from construction,*
20 *remodeling, repair, demolition and similar activities; chemical containers*
21 *which have been emptied to the extent practicable; nonfriable asbestos;*
22 *and friable asbestos which is disposed in a designated area approved by*
23 *the department.*

24 (2) *Except as specifically provided in paragraph (1),* “construction
25 and demolition waste” shall not include waste material containing friable
26 asbestos *or free liquids*, garbage, furniture, appliances, electrical equip-
27 ment containing hazardous materials, tires, *sealed garbage bags*, drums
28 and containers even though such wastes resulted from construction and
29 demolition activities. Clean rubble that is mixed with other construction
30 and demolition waste during demolition or transportation shall be con-
31 sidered to be construction and demolition waste.

32 (v) “Construction and demolition landfill” means a permitted solid
33 waste disposal area used exclusively for the disposal on land of construc-
34 tion and demolition wastes. This term shall not include a site that is used
35 exclusively for the disposal of clean rubble.

36 (w) “Clean rubble” means inert uncontaminated construction and
37 demolition waste which includes concrete and concrete products, rein-
38 forcing steel, asphalt pavement, brick, soil or rock.

39 (x) “Industrial waste” means all solid waste resulting from manufac-
40 turing, commercial and industrial processes which is not suitable for dis-
41 charge to a sanitary sewer or treatment in a community sewage treatment
42 plant or is not beneficially used in a manner that meets the definition of
43 recyclables. Industrial waste includes, but is not limited to: Mining wastes

1 from extraction, beneficiation and processing of ores and minerals unless
2 those minerals are returned to the mine site; fly ash, bottom ash, slag and
3 flue gas emission wastes generated primarily from the combustion of coal
4 or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil
5 filters; and fluorescent lamps.

6 (y) “Composting facility” means any facility that composts wastes and
7 has a composting area larger than one-half acre.

8 (z) “Household hazardous waste facility” means a facility established
9 for the purpose of collecting, accumulating and managing household haz-
10 ardous waste and may also include small quantity generator waste or ag-
11 ricultural pesticide waste, or both. Household hazardous wastes are con-
12 sumer products that when discarded exhibit hazardous characteristics.

13 (aa) “Waste-to-energy facility” means a facility that processes solid
14 waste to produce energy or fuel.

15 (bb) “Transfer station” means any facility where solid wastes are
16 transferred from one vehicle to another or where solid wastes are stored
17 and consolidated before being transported elsewhere, but shall not in-
18 clude a collection box provided for public use as a part of a county-op-
19 erated solid waste management system if the box is not equipped with
20 compaction mechanisms or has a volume smaller than 20 cubic yards.

21 (cc) “Municipal solid waste landfill” means a solid waste disposal area
22 where residential waste is placed for disposal. A municipal solid waste
23 landfill also may receive other nonhazardous wastes, including commer-
24 cial solid waste, sludge and industrial solid waste.

25 (dd) “Construction related packaging” means small quantities of
26 packaging wastes that are generated in the construction, remodeling or
27 repair of structures and related appurtenances. “Construction related
28 packaging” does not include packaging wastes that are generated at retail
29 establishments selling construction materials, chemical containers gen-
30 erated from any source or packaging wastes generated during mainte-
31 nance of existing structures.

32 New Sec. 2. (a) Each construction and demolition landfill shall:

33 (1) Be fenced or have other appropriate barriers to restrict access to
34 the landfill when it is not open;

35 (2) have controlled access at all times the landfill is open to accept
36 waste;

37 (3) have appropriate signage regarding the operations of the landfill;
38 and

39 (4) cover all exposed construction and demolition waste at least once
40 every 30 days.

41 (b) Except for construction and demolition landfills described in sub-
42 section (d), all construction and demolition landfills shall:

43 (1) Not be located within a 100-year flood plain;

1 (2) not be located so as to cause the destruction or adverse modifi-
2 cation of critical habitat for any endangered species as provided in K.S.A.
3 32-958, and amendments thereto; and

4 (3) not be located within 150 feet of the property line without the
5 consent of the adjoining landowner.

6 The department shall waive any of the requirements in this subsection
7 (b) upon a demonstration by the landfill's owner or operator that site
8 specific conditions render the requirements inappropriate.

9 (c) Any construction and demolition landfill which has its lowest point
10 of waste disposal five feet or less above the geologic unit in which the
11 first encountered aquifer is located shall be required to manage or to
12 prevent the pollution of the water of Kansas.

13 (d) If a construction and demolition landfill is permitted by the de-
14 partment prior to the effective date of this act, the department shall not
15 impose, by rules and regulations or permit, any restriction or condition
16 in addition to those restrictions and conditions in effect on January 1,
17 2002, on the use or operation of such landfill unless:

18 (1) The requirement or condition is imposed pursuant to subsection
19 (a); or

20 (2) the landfill is in the waste disposal phase and a renewal of the
21 permit is required.

22 New Sec. 3. When the department determines through scientific
23 analysis and demonstration that a construction and demolition landfill has
24 or can reasonably be expected to cause harm to the waters of the state,
25 the department may require any future phases at such landfill to utilize
26 a compacted soil liner and may require the owner or the operator of the
27 landfill to take appropriate response actions including, without limitation,
28 any one or more of the following: Groundwater monitoring, groundwater
29 remediation, methane gas collection or orderly closure of any phase of
30 such landfill which has been the source of the release.

31 New Sec. 4. (a) The secretary, with the advice of the advisory council
32 established pursuant to subsection (b), shall adopt rules and regulations,
33 guidelines and policies to regulate the design, permitting construction,
34 operator, closure and post-closure care of construction and demolition
35 landfills.

36 (b) (1) There is hereby established the construction and demolition
37 landfill technical advisory council.

38 (2) The advisory council shall consist of two members appointed by
39 the Kansas association of counties, two members appointed by the league
40 of Kansas municipalities, two members appointed by the Kansas construc-
41 tion and demolition landfill association and three members who are ap-
42 pointed by the governor and are knowledgeable in construction and dem-
43 olition landfills.

1 (3) The advisory council shall:

2 (A) Work jointly with the department to develop rules and regula-
3 tions, guidelines and policies to regulate the design, permitting, construc-
4 tion, operation, closure and post-closure care of construction and dem-
5 olition landfills;

6 (B) prepare with the department and submit to the legislature before
7 December 31, 2002, a joint report regarding the status of drafting of such
8 rules and regulations, guidelines and policies; and

9 (C) review and report its recommendations regarding any proposed
10 legislation which: (i) Amends, supplements or affects the statutes govern-
11 ing construction and demolition landfills, or rules and regulations adopted
12 thereunder, or affects the administration of such statutes or rules and
13 regulations; (ii) is introduced in the legislature; and (iii) is requested to
14 be reviewed and reported on to a standing committee of either chamber
15 of the legislature to which the bill is referred, upon the request of the
16 chairperson of such committee.

17 (4) The advisory council shall meet at least quarterly and annually
18 shall elect a chairperson and vice chairperson from its members to preside
19 at its meetings.

20 (5) Members of the advisory council shall serve for terms of two years.

21 (c) The members of the technical advisory council shall serve without
22 compensation, but, when attending meetings of the advisory council, or
23 subcommittee meetings thereof authorized by the advisory council, shall
24 be paid mileage and other expenses as provided in K.S.A. 75-3223, and
25 amendments thereto.

26 New Sec. 5. Sections 2 through 4, and amendments thereto, shall be
27 part of and supplemental to the provisions of K.S.A. 65-3401 *et seq.*, and
28 amendments thereto.

29 Sec. 6. K.S.A. 2001 Supp. 65-3402 is hereby repealed.

30 Sec. 7. This act shall take effect and be in force from and after its
31 publication in the statute book.

32
33
34
35
36
37
38
39
40
41
42
43