

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1301 Session of  
1987

---

INTRODUCED BY LEH, SIRIANNI, MORRIS, NAHILL, FOX, FLICK AND  
REBER, MAY 6, 1987

---

REFERRED TO COMMITTEE ON FINANCE, MAY 6, 1987

---

AN ACT

1 Establishing a program to control litter in this Commonwealth;  
2 imposing a tax on solid waste received at sanitary landfills,  
3 and on wholesalers and retailers of litter-generating  
4 products; imposing duties on the Secretary of Revenue, on the  
5 Department of Revenue and on the Department of Environmental  
6 Resources; and creating the Litter Control and Recycling  
7 Fund.

8 TABLE OF CONTENTS

- 9 Section 1. Short title.
- 10 Section 2. Legislative intent.
- 11 Section 3. Definitions.
- 12 Section 4. Recycling tax on sanitary landfill facility.
- 13 Section 5. Tax on sale of litter-generating products.
- 14 Section 6. Litter Control and Recycling Fund.
- 15 Section 7. Collection of landfill tax as a surcharge on tariff.
- 16 Section 8. Payment of refunds.
- 17 Section 9. Prohibition on certain types of containers and  
18 holders.
- 19 Section 10. Rules and regulations.
- 20 Section 11. Contingency provision.

1 Section 12. Effective date.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Litter Tax  
6 and Recycling Act.

7 Section 2. Legislative intent.

8 The General Assembly finds and declares as follows:

9 (1) The generation of solid waste is increasing, while  
10 landfill capacity is decreasing.

11 (2) The recycling of solid waste decreases waste flow to  
12 landfill sites, conserves energy in the manufacturing process  
13 and recovers valuable resources.

14 (3) A comprehensive recycling program is essential to  
15 achieve the maximum practicable recovery of reusable  
16 materials from solid waste in this Commonwealth.

17 (4) The General Assembly should promote and encourage a  
18 clean and safe environment for the health and safety of the  
19 public.

20 (5) A clean and uncluttered landscape makes this  
21 Commonwealth more attractive to tourists, as well as to new  
22 industries and residents.

23 Section 3. Definitions.

24 The following words and phrases when used in this act shall  
25 have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

27 "Department." The Department of Environmental Resources of  
28 the Commonwealth.

29 "Litter." A used or unconsumed substance or waste material  
30 which has been discarded, whether made of aluminum, glass,

1 plastic, rubber, paper or other natural or synthetic material,  
2 or any combination thereof, including, but not limited to, a  
3 bottle, jar or can, or the top, cap or detachable tab of a  
4 bottle, jar or can; an unlighted cigarette, cigar, match or a  
5 flaming or glowing material; garbage, trash, refuse, debris or  
6 rubbish; grass clippings or other lawn or garden waste;  
7 newspapers or magazines; glass, metal, plastic or paper  
8 containers; and packaging or construction material. The term  
9 does not include the waste of the primary process of mining,  
10 other extraction processing, logging, sawmilling, farming or  
11 manufacturing.

12 "Litter-generating products." The following specific goods  
13 which are produced, distributed or purchased in disposable  
14 containers, packages or wrappings; or which are not usually sold  
15 in packages, containers or wrappings, but which are commonly  
16 discarded in public places; or which are of an unsightly or  
17 unsanitary nature and are commonly thrown, dropped, discarded,  
18 placed or deposited by a person on public property, or on  
19 private property not owned by him:

- 20 (1) Beer or other malt beverages.
- 21 (2) Cigarettes and tobacco products.
- 22 (3) Cleaning agents and toiletries.
- 23 (4) Food for human or pet consumption.
- 24 (5) Glass containers.
- 25 (6) Groceries.
- 26 (7) Metal containers.
- 27 (8) Motor vehicle tires.
- 28 (9) Newspapers and magazines.
- 29 (10) Nondrug, drugstore sundry products.
- 30 (11) Household paper and paper products.

1           (12) Plastic or fiber containers made of synthetic  
2 material and sold as such, but not including any container  
3 which is routinely reused, has a useful life of more than one  
4 year, and is ordinarily sold empty at retail.

5           (13) Soft drinks and carbonated waters.

6           (14) Wine and other wine beverages.

7 "Litter receptacle." A receptacle suitable for the  
8 depositing of litter.

9 "Municipality." A city, borough, incorporated town, township  
10 or village situated within the boundaries of this Commonwealth.

11 "Public place." An area that is used by the public or held  
12 out for public use, whether owned or operated by public or  
13 private interests.

14 "Recycling." The process of separating, cleansing, treating  
15 and reconstituting used or discarded litter-related materials  
16 for the purpose of recovering and reusing the resources  
17 contained therein.

18 "Retailing." Includes, but is not limited to, restaurants  
19 which chiefly sell ready-to-eat food for consumption off the  
20 restaurant premises.

21 "Secretary." The Secretary of Environmental Resources of the  
22 Commonwealth.

23 "Taxpayer." The owner or operator of a sanitary landfill  
24 facility or the manufacturer, wholesaler, distributor or  
25 retailer of litter-generating products subject to the tax  
26 provisions of this act.

27 "Tax period." A period prescribed by rule or regulation  
28 adopted by the Secretary of Revenue, for which the owner or  
29 operator of a sanitary landfill facility is required to report  
30 to the Department of Revenue pursuant to this act.

1 Section 4. Recycling tax on sanitary landfill facility.

2 (a) Imposition of recycling tax.--There is hereby imposed,  
3 upon the owner or operator of every sanitary landfill facility  
4 within this Commonwealth, a recycling tax of 12¢ per cubic yard  
5 of solid waste accepted for disposal at the facility. If the  
6 solid waste accepted for disposal is measured by other than  
7 cubic yards, the tax shall be levied on the equivalents, as  
8 shall be determined by the Secretary of Revenue. Every owner or  
9 operator of a sanitary landfill shall register within 20 days  
10 with the Secretary of Revenue after first accepting solid waste.

11 (b) Due date.--Every owner or operator of a sanitary  
12 landfill shall, on or before the 20th day of the month following  
13 the close of each tax period, render a return to the Secretary  
14 of Revenue on a form prescribed by the secretary. Indicated on  
15 the return shall be the number of cubic yards of solid waste  
16 accepted for disposal. Within this time period, the owner or  
17 operator of a sanitary landfill shall pay the full amount of tax  
18 due.

19 (c) Determinations and redeterminations of tax due.--If a  
20 required return is not filed, or if a return, when filed, is  
21 incorrect or insufficient in the opinion of the Secretary of  
22 Revenue, the secretary shall determine the amount of tax due  
23 from the available information. Notice of a determination shall  
24 be given to the taxpayer liable for the payment of the tax. This  
25 determination shall finally and irrevocably fix the tax unless  
26 the person against whom it is assessed, within 30 days after  
27 receiving notice of the determination, applies to the secretary  
28 for a hearing or unless the secretary initiates and completes a  
29 redetermination on his own motion. The Secretary of Revenue  
30 shall give notice of any determination to the person against

1 whom the tax is assessed.

2 (d) Failure to comply with due date.--A taxpayer who fails  
3 to file a return or pay a tax when it becomes due under this  
4 section shall be subject to penalty and interest under section  
5 1702 of the act of April 9, 1929 (P.L.343, No.176), known as The  
6 Fiscal Code. If the Secretary of Revenue determines that failure  
7 to comply with a provision of this section was excusable, he may  
8 remit part or all of the penalty as shall be appropriate.

9 (e) Adequate evidence.--The certificate of the Secretary of  
10 Revenue to the effect that a tax has not been paid, that a  
11 return has not been filed, that information has not been  
12 supplied, or that inaccurate information has been supplied  
13 pursuant to the provisions of this act or rules and regulations  
14 adopted under it shall be presumptive evidence of a violation of  
15 this act.

16 (f) Miscellaneous powers.--In addition to the other powers  
17 granted by this section, the Secretary of Revenue may:

18 (1) Delegate to an officer or employee of the Department  
19 of Revenue any powers and duties necessary to carry out  
20 efficiently the provisions of this section.

21 (2) Prescribe and distribute all forms necessary for the  
22 implementation of this section.

23 Section 5. Tax on sale of litter-generating products.

24 (a) Imposition of tax on manufacturers, wholesalers and  
25 distributors.--A tax of 0.03% is imposed upon each person  
26 engaged as a manufacturer, wholesaler or distributor of litter-  
27 generating products on sales of those products within this  
28 Commonwealth. A sale by a wholesaler or distributor to another  
29 wholesaler or distributor, a sale by a company to another  
30 company owned wholly by the same individuals or companies, or a

1 sale by a wholesaler or distributor owned cooperatively by  
2 retailers to those retailers is not subject to tax under this  
3 act.

4 (b) Imposition of tax on retailers.--A tax of 0.0225% is  
5 imposed upon each person engaged as a retailer of litter-  
6 generating products on sales of those products within this  
7 Commonwealth. A retailer with less than \$250,000 in annual  
8 retail sales of litter-generating products is exempt from this  
9 tax.

10 (c) Registration of taxpayers.--Within one year from the  
11 effective date of this act, each person subject to the tax  
12 imposed under this section shall file with the Secretary of  
13 Revenue a certificate of registration on a form prescribed by  
14 the secretary. If a person commences a business or opens a new  
15 place of business after this one-year time frame, the person  
16 shall file a certificate of registration with the Secretary of  
17 Revenue within 30 days after commencing the business or opening  
18 the facility.

19 (d) Due date.--A person subject to the tax imposed by this  
20 section shall, on or before March 15 of each year, prepare and  
21 file a return for the preceding calendar year with the Secretary  
22 of Revenue on forms and containing information, under oath,  
23 which the secretary prescribes. The return shall indicate the  
24 dollar value of the sales within this Commonwealth of litter-  
25 generating products and, at the same time, the person shall pay  
26 the full amount of tax due.

27 (e) Determinations and redeterminations of tax due.--If a  
28 return required by this section is not filed, or if a return,  
29 when filed, is incorrect or insufficient in the opinion of the  
30 Secretary of Revenue, the secretary shall determine the amount

1 of tax due from the available information. Notice of a  
2 determination shall be given to the taxpayer liable for the  
3 payment of the tax. This determination shall finally and  
4 irrevocable fix the tax unless the person against whom it is  
5 assessed, within 30 days after receiving notice of the  
6 determination, applies to the secretary for a hearing, or unless  
7 the secretary initiates and completes a redetermination on his  
8 own motion. The secretary shall give notice of any determination  
9 to the person against whom the tax is assessed.

10 (f) Failure to comply with due date.--A taxpayer who fails  
11 to file a return or pay a tax when it becomes due under this  
12 section shall be subject to penalty and interest as provided in  
13 section 1702 of the act of April 9, 1929 (P.L.343, No.176),  
14 known as The Fiscal Code. If the Secretary of Revenue determines  
15 that failure to comply with a provision of this section was  
16 excusable, he may remit part or all of the penalty as shall be  
17 appropriate.

18 (g) Adequate evidence.--The certificate of the Secretary of  
19 Revenue to the effect that a tax has not been paid, that a  
20 return has not been filed, that information has not been  
21 supplied, or that inaccurate information has been supplied  
22 pursuant to the provisions of this act or rules and regulations  
23 adopted hereunder shall be presumptive evidence of a violation  
24 thereof.

25 (h) Miscellaneous powers.--In addition to the other powers  
26 granted by this section, the Secretary of Revenue may:

27 (1) Delegate to an officer or employee of the Department  
28 of Revenue any powers and duties necessary to carry out  
29 efficiently the provisions of this section.

30 (2) Prescribe and distribute all forms necessary for the



1 implementation of this section.

2 Section 6. Litter Control and Recycling Fund.

3 (a) Creation of fund.--The Litter Control and Recycling  
4 Fund, hereafter referred to as the fund, is hereby established  
5 as a nonlapsing, revolving fund. All moneys received by the  
6 Secretary of Revenue pursuant to this act shall be deposited in  
7 the fund and shall be used exclusively to carry out litter  
8 reduction and recycling programs authorized under this act.

9 Interest received on moneys in the fund and sums received as  
10 repayment of principal and interest on outstanding loans made  
11 from the fund shall be credited to the fund. The Department of  
12 Environmental Resources shall have the responsibility of  
13 performing credit evaluations on loan applicants, servicing  
14 loans and making recommendations concerning the approval or  
15 denial of loans pursuant to this act.

16 (b) Limitation on moneys.--Moneys in the fund shall be  
17 allocated and used only for the following purposes:

18 (1) Not less than 40% of the estimated annual balance of  
19 the fund shall be used for the annual expenses of programs  
20 for recycling grants and bonuses to municipalities.

21 (i) The amount of these grants shall be calculated  
22 on the basis of the total number of tons of recyclable  
23 materials annually recycled from residential and  
24 commercial sources within the municipality, except that  
25 no grant shall exceed \$25 per ton of material recycled.

26 (ii) The department may allocate a portion of these  
27 grant moneys as bonus grants to municipalities that  
28 demonstrate high recovery rates in their recycling  
29 programs.

30 (iii) The department shall issue guidelines

1        establishing a formula defining a high recovery rate and  
2        shall announce, each year, the total amount of moneys  
3        available in the bonus grant fund.

4            (iv) The grant funds allocated to the municipalities  
5        shall be placed into an interest-bearing account separate  
6        from the municipalities' general fund and shall be used  
7        by the municipalities exclusively for recycling.

8            (v) To be eligible for a grant under this  
9        subsection, a municipality shall demonstrate that  
10       materials recycled by the municipal recycling program  
11       were not diverted from a commercial recycling program  
12       already in existence on the effective date of the  
13       ordinance establishing the municipal recycling program.

14           (vi) No grant to a municipality may be used for  
15       constructing or operating a facility for the baling of  
16       wastepaper or for the shearing, baling or shredding of  
17       ferrous or nonferrous materials.

18        (2) Not less than 20% of the estimated annual balance of  
19       the fund shall be used to provide low-interest loans and to  
20       establish a sufficient reserve for a loan guarantee program  
21       for recycling businesses and industries.

22        (3) Not more than 10% of the estimated annual balance of  
23       the fund shall be used for county and municipal recycling  
24       program planning and program funding, including  
25       administrative expenses.

26        (4) Not more than 10% of the estimated annual balance of  
27       the fund shall be used for Commonwealth recycling program  
28       planning and program funding, including administrative  
29       expenses.

30        (5) Not more than 10% of the estimated annual balance of

1 the fund shall be used for a public information and education  
2 program concerning recycling and anti-litter activities.

3 (6) Not less than 10% of the estimated annual balance of  
4 the fund shall be used for a litter patrol program to employ  
5 youths from this Commonwealth to remove litter from places  
6 and areas that are most visible to the public.

7 Section 7. Collection of landfill tax as a surcharge on tariff.

8 Notwithstanding a provision of law to the contrary, the owner  
9 or operator of a sanitary landfill may collect the tax imposed  
10 under section 4 as a surcharge on a tariff established pursuant  
11 to law for the solid waste disposal operations of the facility.

12 Section 8. Payment of refunds.

13 When the Secretary of Revenue determines that a taxpayer is  
14 entitled to a refund or when a court of competitive jurisdiction  
15 orders a refund, the secretary shall pay the refund from the  
16 fund. However, no refund shall be allowed unless a claim is  
17 filed with the Secretary of Revenue within three years from the  
18 date of overpayment. A claim for a refund shall be in writing  
19 and shall be in the form and contain the information as the  
20 secretary prescribes by regulation.

21 Section 9. Prohibition on certain types of containers and  
22 holders.

23 (a) General rule.--No beverage shall be sold or offered for  
24 sale to consumers in this Commonwealth:

25 (1) In a metal beverage container designed or  
26 constructed with a part of the container which is detachable  
27 in opening the container, unless the detachable part will  
28 decompose by photodegradation, chemical degradation or  
29 biodegradation.

30 (2) In beverage containers connected to each other by a

1 separate holding device constructed of plastic which does not  
2 decompose by photodegradation, chemical degradation or  
3 biodegradation within a reasonable period of time upon  
4 exposure to the elements.

5 (b) Definition.--For purposes of this section, the term  
6 "beverage" means alcoholic beverages, including beer or other  
7 malt beverages, liquor, wine, vermouth and sparkling wine, and  
8 nonalcoholic beverages, including fruit juice, mineral water and  
9 soda water, and similar nonalcoholic carbonated drinks intended  
10 for human consumption.

11 Section 10. Rules and regulations.

12 (a) Relating to tax collection.--The Secretary of Revenue  
13 may prescribe rules and regulations to carry out the provisions  
14 of this act concerning the manner and collection of the tax  
15 imposed pursuant to sections 4 and 5.

16 (b) Relating to disbursements.--The Secretary of  
17 Environmental Resources may prescribe rules and regulations to  
18 carry out the provisions of this act concerning the disbursement  
19 of fund money and the implementation and administration of the  
20 anti-litter and recycling programs.

21 Section 11. Contingency provision.

22 The provisions of this act shall become null and void, and  
23 the tax imposed shall terminate, if Federal or State legislation  
24 is enacted which requires a deposit on beverage containers.

25 Section 12. Effective date.

26 This act shall take effect January 1, 1988.