

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, in environmental stewardship and
3 watershed protection, further providing for extension of
4 fees; in disposal fee, further providing for disposal fee for
5 municipal waste landfills; providing for recycling fee;
6 repealing provisions of the Municipal Waste Planning,
7 Recycling and Waste Reduction Act relating to recycling fee;
8 and making editorial changes.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Sections 6112, 6301(a), 6302 and 6303(a) of Title
12 27 of the Pennsylvania Consolidated Statutes are amended to
13 read:

14 § 6112. Extension of fees.

15 (b) Fee established.--Each operator of a municipal waste
16 landfill or residual waste landfill shall pay, in the same
17 manner prescribed in section 701 of the Municipal Waste
18 Planning, Recycling and Waste Reduction Act, an amount equal to
19 25¢ per ton of weighted waste or 25¢ per three cubic yards of
20 volume-measured waste for all solid waste and residual waste

1 received at the landfill. The fee established by this subsection
2 shall be paid to the State Treasury and deposited into the fund
3 and shall not be subject to the provisions of section [701(d) of
4 the act of July 28, 1988 (P.L.556, No.101), known as the
5 Municipal Waste Planning, Recycling and Waste Reduction Act]
6 6402(d) (relating to recycling fee for municipal waste
7 landfills, resource recovery facilities and residual waste
8 landfills).

9 § 6301. Disposal fee for municipal waste landfills and residual
10 waste landfills.

11 (a) Imposition.--Except as otherwise provided in subsection
12 (b), each operator of a municipal waste landfill or residual
13 waste landfill shall pay, in the same manner prescribed in
14 Chapter [7 of the act of July 28, 1988 (P.L.556, No.101), known
15 as the Municipal Waste Planning, Recycling and Waste Reduction
16 Act] 64 (relating to recycling fee), a disposal fee of \$4 per
17 ton for all solid waste and residual waste disposed of at the
18 municipal waste landfill or residual waste landfill. The fee
19 established in this section shall apply to process residue and
20 nonprocessable waste from a resource recovery facility that is
21 disposed of at the municipal waste landfill or residual waste
22 landfill and is in addition to the fee established in section
23 [701 of the Municipal Waste Planning, Recycling and Waste
24 Reduction Act] 6402 (relating to recycling fee for municipal
25 waste landfills, resource recovery facilities and residual waste
26 landfills). The fee established by this subsection shall not be
27 subject to the provisions of section [701(d) of the Municipal
28 Waste Planning, Recycling and Waste Reduction Act] 6402(d).

29 * * *

30 § 6302. Deposit of disposal fee.

1 [(1) For the fiscal year 2002-2003, fees received by the
2 department pursuant to section 6301 (relating to disposal fee
3 for municipal waste landfills) shall be paid into the State
4 Treasury as follows:

5 (i) The first \$50,000,000 in fees collected shall be
6 deposited into the Environmental Stewardship Fund
7 established in Chapter 61 (relating to environmental
8 stewardship and watershed protection).

9 (ii) Any fees collected thereafter shall be
10 deposited in the General Fund.

11 (2) For the fiscal year 2003-2004 and beyond, all] All
12 fees collected by the department pursuant to section 6301
13 (relating to disposal fee for municipal waste landfills and
14 residual waste landfills) shall be deposited into the
15 Environmental Stewardship Fund established in Chapter 61.

16 § 6303. Surcharge.

17 (a) Owners and operators.--The owner or operator of a
18 municipal waste landfill which collects and remits the fee
19 established pursuant to section 6301 (relating to disposal fee
20 for municipal waste landfills and residual waste landfills) may
21 pass through and collect the fee from any person who delivered
22 the waste to the municipal waste landfill as a surcharge in
23 accordance with section 705 of the Municipal Waste Planning,
24 Recycling and Waste Reduction Act on any fee schedule
25 established pursuant to law, ordinance, resolution or contract
26 for solid waste disposal operations at the municipal waste
27 landfill.

28 * * *

29 Section 2. Title 27 is amended by adding a chapter to read:

30 CHAPTER 64

1 RECYCLING FEE

2 Sec.

3 6401. Definitions.

4 6402. Recycling fee for municipal waste landfills, resource
5 recovery facilities and residual waste landfills.

6 6403. Form and timing of recycling fee payment.

7 6404. Collection and enforcement of fee.

8 6505. Records.

9 6406. Surcharge.

10 6407. Recycling Fund.

11 6408. Used tire pile remediation.

12 § 6401. Definitions.

13 As used in this section, the following words and phrases
14 shall have the meanings given to them in this subsection unless
15 the context clearly indicates otherwise:

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "Municipal Waste Planning, Recycling and Waste Reduction
19 Act." The act of July 28, 1988 (P.L.556, No.101), known as the
20 Municipal Waste Planning, Recycling and Waste Reduction Act.

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

23 § 6402. Recycling fee for municipal waste landfills, resource
24 recovery facilities and residual waste landfills.

25 (a) Imposition.--There is imposed a recycling fee of \$2 per
26 ton for all solid waste and residual waste processed at resource
27 recovery facilities and for all solid waste and residual waste
28 except process residue and nonprocessable waste from a resource
29 recovery facility that is disposed of at municipal waste
30 landfills and residual waste landfills. The fee shall be paid by

1 the operator of each municipal waste landfill and resource
2 recovery facility.

3 (b) Alternative calculation.--The fee for operators of
4 municipal waste landfills, resource recovery facilities and
5 residual waste landfills that do not weigh solid waste or
6 residual waste when it is received shall be calculated as if
7 three cubic yards were equal to one ton of solid waste or
8 residual waste.

9 (c) Waste weight requirement.--On and after April 9, 1990,
10 each operator of a municipal waste landfill, resource recovery
11 facility or residual waste landfill that has received 30,000 or
12 more cubic yards of solid waste and residual waste in the
13 previous calendar year shall weigh all solid waste and residual
14 waste when it is received. The scale used to weigh solid waste
15 and residual waste shall conform to the requirements of 3
16 Pa.C.S. Ch. 41 (relating to weights and measures) and the
17 regulations promulgated under that chapter. The operator of the
18 scale shall be a licensed public weighmaster under 3 Pa.C.S. Ch.
19 41 and the regulations promulgated under that chapter.

20 (d) Sunset for fee.--No fee shall be imposed under this
21 section on and after January 1, 2020.

22 § 6403. Form and timing of recycling fee payment.

23 (a) Quarterly payments.--Each operator of a municipal waste
24 landfill, resource recovery facility or residual waste landfill
25 shall make the recycling fee payment quarterly. The fee shall be
26 paid on or before the 20th day of April, July, October and
27 January for the three months ending the last day of March, June,
28 September and December.

29 (b) Quarterly reports.--Each recycling fee payment shall be
30 accompanied by a form prepared and furnished by the department

1 and completed by the operator. The form shall state the total
2 weight or volume of solid waste and residual waste received by
3 the facility during the payment period and provide any other
4 aggregate information deemed necessary by the department to
5 carry out the purposes of this act. The form shall be signed by
6 the operator.

7 (c) Timeliness of payment.--The operator shall be deemed to
8 have made a timely payment of the recycling fee if the operator
9 complies with all of the following:

10 (1) The enclosed payment is for the full amount owed
11 under this section and no further departmental action is
12 required for collection.

13 (2) The payment is accompanied by the required form, and
14 the form is complete and accurate.

15 (3) The letter transmitting the payment that is received
16 by the department is postmarked by the United States Postal
17 Service on or prior to the final day on which the payment is
18 to be received.

19 (d) Discount.--Any operator that makes a timely payment of
20 the recycling fee as provided in this section shall be entitled
21 to credit and to apply against the fee payable a discount of 1%
22 of the amount of the fee collected.

23 (e) Refunds.--Any operator that believes he has overpaid the
24 recycling fee may file a petition for refund to the department.
25 If the department determines that the operator has overpaid the
26 fee, the department shall refund to the operator the amount due
27 him, together with interest at a rate established under section
28 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as
29 The Fiscal Code, from the date of overpayment. No refund of the
30 recycling fee shall be made unless the petition for the refund

1 is filed with the department within six months of the date of
2 the overpayment.

3 (f) Alternative proof of payment.--For purposes of this
4 section, presentation of a receipt indicating that the payment
5 was mailed by registered or certified mail on or before the due
6 date shall be evidence of timely payment.

7 § 6404. Collection and enforcement of fee.

8 (a) Interest.--If an operator fails to make a timely payment
9 of the recycling fee, the operator shall pay interest on the
10 unpaid amount due at the rate established under section 806 of
11 the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal
12 Code, from the last day for timely payment to the date paid.

13 (b) Additional penalty.--In addition to the interest
14 provided in subsection (a), if an operator fails to make timely
15 payment of the recycling fee, there shall be added to the amount
16 of fee actually due 5% of the amount of the fee, if the failure
17 to file a timely payment is for not more than one month, with an
18 additional 5% for each additional month, or fraction thereof,
19 during which the failure continues, not exceeding 25% in the
20 aggregate.

21 (c) Assessment notices.--

22 (1) If the department determines that any operator has
23 not made a timely payment of the recycling fee, it will send
24 the operator a written notice of the amount of the deficiency
25 within 30 days of determining such deficiency. When the
26 operator has not provided a complete and accurate statement
27 of the weight or volume of solid waste and residual waste
28 received at the facility for the payment period, the
29 department may estimate the weight or volume in its notice.

30 (2) The operator charged with the deficiency shall have

1 30 days to pay the deficiency in full or, if the operator
2 wishes to contest the deficiency, forward the amount of the
3 deficiency to the department for placement in an escrow
4 account with the State Treasurer or any Pennsylvania bank, or
5 post an appeal bond in the amount of the deficiency. The bond
6 shall be executed by a surety licensed to do business in this
7 Commonwealth and be satisfactory to the department. Failure
8 to forward the money or the appeal bond to the department
9 within 30 days shall result in a waiver of all legal rights
10 to contest the deficiency.

11 (3) If, through administrative or judicial review of the
12 deficiency, it is determined that the amount of deficiency
13 shall be reduced, the department shall within 30 days remit
14 the appropriate amount to the operator, with any interest
15 accumulated by the escrow deposit.

16 (4) The amount determined after administrative hearing
17 or after waiver of administrative hearing shall be payable to
18 the Commonwealth and shall be collectible in the manner
19 provided in section 1709 of the Municipal Waste Planning,
20 Recycling and Waste Reduction Act.

21 (5) Any other provision of law to the contrary
22 notwithstanding, there shall be a statute of limitations of
23 five years upon actions brought by the Commonwealth under
24 this section.

25 (6) If any amount due under this chapter remains unpaid
26 30 days after receipt of notice thereof, the department may
27 order the operator of the facility to cease receiving any
28 solid waste and residual waste until the amount of the
29 deficiency is completely paid.

30 (d) Filing of appeals.--Notwithstanding any other provision

1 of law, all appeals of final department actions concerning the
2 resource recovery fee, including, but not limited to, petitions
3 for refunds, shall be filed with the Environmental Hearing
4 Board.

5 (e) Constructive trust.--All recycling fees collected by an
6 operator and held by the operator prior to payment to the
7 department shall constitute a trust fund for the Commonwealth,
8 and the trust shall be enforceable against the operator, its
9 representatives and any person receiving any part of the fund
10 without consideration or with knowledge that the operator is
11 committing a breach of the trust. However, any person receiving
12 payment of lawful obligation of the operator from the fund shall
13 be presumed to have received the same in good faith and without
14 any knowledge of the breach of trust.

15 (f) Remedies cumulative.--The remedies provided to the
16 department in this section are in addition to any other remedies
17 provided at law or in equity.

18 § 6405. Records.

19 Each operator shall keep daily records of all deliveries of
20 solid waste and residual waste to the facility as required by
21 the department, including, but not limited to, the name and
22 address of the hauler, the source of the waste, the kind of
23 waste received and the weight or volume of the waste. A copy of
24 these records shall be maintained at the site by the operator
25 for no less than five years and shall be made available to the
26 department and the host municipality for inspection, upon
27 request.

28 § 6406. Surcharge.

29 The provisions of any law to the contrary notwithstanding,
30 the operator may collect the fee imposed by this section as a

1 surcharge on any fee schedule established under law, ordinance,
2 resolution or contract for solid waste and residual waste
3 processing or disposal operations at the facility. In addition,
4 any person who collects or transports solid waste and residual
5 waste subject to the recycling fee to a municipal waste
6 landfill, resource recovery facility or residual waste landfill
7 may impose a surcharge on any fee schedule established under
8 law, ordinance, resolution or contract for the collection or
9 transportation of solid waste to the facility. The surcharge
10 shall be equal to the increase in disposal fees at the facility
11 attributable to the recycling fee. However, interest and
12 penalties on the fee under section 6404(a) and (b) (relating to
13 collection and enforcement of fee) may not be collected as a
14 surcharge.

15 § 6407. Recycling Fund.

16 (a) Establishment.--All fees received by the department
17 under section 6402 (relating to recycling fee for municipal
18 waste landfills, resource recovery facilities and residual waste
19 landfills) shall be paid into the State Treasury into the
20 Recycling Fund.

21 (b) Appropriation.--All money placed in the Recycling Fund
22 is appropriated to the department for the purposes under this
23 section. The department shall annually submit to the Governor
24 for his approval estimates of amounts to be expended under this
25 chapter.

26 (c) Allocations.--The department shall, to the extent
27 practicable, allocate the money received by the Recycling Fund,
28 including all interest generated thereon, in the following
29 manner over the life of the fund:

30 (1) At least 70% shall be expended by the department for

1 grants to municipalities for the development and
2 implementation of recycling programs under section 902 of the
3 Municipal Waste Planning, Recycling and Waste Reduction Act,
4 recycling coordinators as provided in section 903 of that
5 act, for grants for municipal recycling programs under
6 section 904 of that act, and market development and waste
7 reduction studies under section 508 of that act; for
8 implementation of the recommendations in the studies required
9 by section 508 of that act; and for research conducted or
10 funded by the Department of Transportation under section 1506
11 of that act.

12 (2) Up to 10% may be expended by the department for
13 grants for feasibility studies for municipal waste processing
14 and disposal facilities, except for facilities for the
15 combustion of municipal waste that are not proposed to be
16 operated for the recovery of energy under section 901 of the
17 Municipal Waste Planning, Recycling and Waste Reduction Act.

18 (3) Up to 30% may be expended by the department for
19 public information, public education and technical assistance
20 programs concerning litter control, recycling and waste
21 reduction, including technical assistance programs for
22 counties and other municipalities, for research and
23 demonstration projects, for planning grants under section 901
24 of the Municipal Waste Planning, Recycling and Waste
25 Reduction Act, for the host inspector training program under
26 section 1102 of that act and for other purposes consistent
27 with this chapter.

28 (4) No more than 3% may be expended for the collection
29 and administration of money in the fund.

30 (d) Transfer.--On the first day of the 27th year after the

1 fee imposed under section 6402 (relating to recycling fee for
2 municipal waste landfills, resource recovery facilities and
3 residual waste landfills) becomes effective, all money in the
4 Recycling Fund that is not obligated shall be transferred to the
5 Solid Waste Abatement Fund and expended in the same manner as
6 other money in the Solid Waste Abatement Fund. On the first day
7 of the 30th year after the fee imposed under section 6402
8 becomes effective, all money in the Recycling Fund that is not
9 expended shall be transferred to the Solid Waste Abatement Fund
10 and expended in the same manner as other money in the Solid
11 Waste Abatement Fund.

12 (e) Advisory committee.--

13 (1) The secretary shall establish a Recycling Fund
14 Advisory Committee composed of representatives of counties,
15 other municipalities, municipal authorities, the municipal
16 waste management industry, the municipal waste recycling
17 industry, the municipal waste generating industry and the
18 general public. The committee shall also include members of
19 the General Assembly, one appointed by each of the following:

20 (i) the President pro tempore of the Senate;

21 (ii) the Minority Leader of the Senate;

22 (iii) the Speaker of the House of Representatives;

23 and

24 (iv) the Minority Leader of the House of
25 Representatives.

26 (2) The committee shall meet at least annually to review
27 the Commonwealth's progress in meeting the goals under
28 section 102(c) of the Municipal Waste Planning, Recycling and
29 Waste Reduction Act, to recommend priorities on expenditures
30 from the fund and to advise the secretary on associated

1 activities concerning the administration of the fund.

2 (3) The department shall reimburse members of the
3 committee for reasonable travel, hotel and other necessary
4 expenses incurred in performance of their duties under this
5 section.

6 (f) Annual reports.--The department shall submit an annual
7 report to the General Assembly on receipts to and disbursements
8 from the Recycling Fund in the previous fiscal year, projections
9 for revenues and expenditures in the coming fiscal year and the
10 Commonwealth's progress in achieving the goals under section
11 102(c) of the Municipal Waste Planning, Recycling and Waste
12 Reduction Act. The annual report due two years before the
13 expiration of the recycling fee under section 701(d) of that act
14 shall contain a recommendation whether the fee should continue
15 to be imposed after the expiration date and, if so, the proposed
16 amount of the fee.

17 § 6408. Used tire pile remediation.

18 (a) Funding transfers.--Beginning in fiscal year 2009-2010
19 through and including fiscal year 2012-2013, \$1,250,000 shall be
20 transferred annually from the Recycling Fund created under
21 section 706 of the Municipal Waste Planning, Recycling and Waste
22 Reduction Act to the Used Tire Pile Remediation Restricted
23 Account established under section 110 of the act of December 19,
24 1996 (P.L.1478, No.190), entitled "An act relating to the
25 recycling and reuse of waste tires; providing for the proper
26 disposal of waste tires and the cleanup of stockpiled tires;
27 authorizing investment tax credits for utilizing waste tires;
28 providing remediation grants for the cleanup of tire piles and
29 for pollution prevention programs for small business and
30 households; establishing the Small Business and Household

1 Pollution Prevention Program and management standards for small
2 business hazardous waste; providing for a household hazardous
3 waste program and for grant programs; making appropriations; and
4 making repeals."

5 (b) Use of funding.--For fiscal year 2009-2010 through
6 fiscal year 2012-2013, money in the account shall be used for
7 the following purposes:

8 (1) The remediation of waste tire piles on the priority
9 enforcement list maintained by the department under section
10 107(a) and (b) of the act of December 19, 1996 (P.L.1478,
11 No.190).

12 (2) The remediation of waste tire piles on the list of
13 additional waste tire sites maintained by the department
14 under section 107(d) of the act of December 19, 1996
15 (P.L.1478, No.190).

16 (3) For the award of grants under section 111 of the act
17 of December 19, 1996 (P.L.1478, No.190) for remediation of
18 waste tire piles as provided in this subsection or for
19 activities authorized under that section which the department
20 determines will assist with the remediation of waste tire
21 piles as provided in this subsection.

22 (c) Annual report by department.--No later than December 31,
23 2010, and no later than each December 31 thereafter, the
24 department shall provide a report to the Environmental Resources
25 and Energy Committee of the Senate, the Appropriations Committee
26 of the Senate, the Environmental Resources and Energy Committee
27 of the House of Representatives and the Appropriations Committee
28 of the House of Representatives on the Used Tire Pile
29 Remediation Restricted Account and the remediation of used tire
30 piles. The last report to be submitted by the department under

1 this subsection shall be submitted no later than December 31,
2 2014. Within seven days following submission of each report to
3 the Senate and House committees, the department shall post the
4 report on the department's publicly accessible Internet website.

5 The report shall include:

6 (1) The current balance of the account and the projected
7 balance of the account at the end of the fiscal year for
8 which the department's budget is being submitted.

9 (2) A listing of waste tire piles remediated or to be
10 remediated under subsection (b) during the prior fiscal year
11 and cumulatively since the effective date of this subsection.

12 (3) Those waste tire piles which the department expects
13 to remediate under subsection (b) during the fiscal year for
14 which its budget is being submitted and the projected cost
15 for remediation of those waste tire piles.

16 (4) Those waste tire piles which will remain to be
17 remediated under subsection (b) and the projected cost for
18 remediation of those waste tire piles.

19 Section 3. The addition of 27 Pa.C.S. Ch. 64 is a
20 continuation of Chapter 7 of the act of July 28, 1988 (P.L.556,
21 No.101), known as the Municipal Waste Planning, Recycling and
22 Waste Reduction Act, and the following shall apply:

23 (1) Except as otherwise provided in 27 Pa.C.S. Ch. 64,
24 all activities initiated under Chapter 7 of the Municipal
25 Waste Planning, Recycling and Waste Reduction Act shall
26 continue and remain in full force and effect and may be
27 completed under 27 Pa.C.S. Ch. 64. Resolutions, orders,
28 regulations, rules and decisions which were made under
29 Chapter 7 of the Municipal Waste Planning, Recycling and
30 Waste Reduction Act and which are in effect on the effective

1 date of this section shall remain in full force and effect
2 until revoked, vacated or modified under 27 Pa.C.S. Ch. 64.
3 Contracts, obligations and agreements entered into under
4 Chapter 7 of the Municipal Waste Planning, Recycling and
5 Waste Reduction Act are not affected nor impaired by the
6 repeal of Chapter 7 of the Municipal Waste Planning,
7 Recycling and Waste Reduction Act.

8 (2) Except as set forth in paragraph (3), any difference
9 in language between 27 Pa.C.S. Ch. 64 and Chapter 7 of the
10 Municipal Waste Planning, Recycling and Waste Reduction Act
11 is intended only to conform to the style of the Pennsylvania
12 Consolidated Statutes and is not intended to change or affect
13 the legislative intent, judicial construction or
14 administrative interpretation and implementation of Chapter 7
15 of the Municipal Waste Planning, Recycling and Waste
16 Reduction Act.

17 (3) Paragraph (2) does not apply to the references to
18 "residual waste" in 27 Pa.C.S. Ch. 64.

19 Section 4. Any and all references in any law or regulation
20 to Chapter 7, or a provision thereof, of the act of July 28,
21 1988 (P.L.556, No.101), known as the Municipal Waste Planning,
22 Recycling and Waste Reduction Act, shall be deemed to be a
23 reference to 27 Pa.C.S. Ch. 64, or relevant portion thereof.

24 Section 5. Repeals are as follows:

25 (1) The General Assembly finds that the repeal under
26 paragraph (2) is necessary to effectuate the addition of 27
27 Pa.C.S. Ch. 64.

28 (2) Chapter 7 of the act of July 28, 1988 (P.L.556,
29 No.101), known as the Municipal Waste Planning, Recycling and
30 Waste Reduction Act, is repealed.

1 Section 6. This act shall take effect in 60 days.

