
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1838 Session of
2003

INTRODUCED BY GRUCELA, BIANCUCCI, COY, DALLY, FABRIZIO, FREEMAN,
GEORGE, GERGELY, JOSEPHS, LAUGHLIN, LEVDANSKY, McCALL,
ROONEY, SHANER, SURRA, TANGRETTI, WALKO AND WANSACZ,
JULY 9, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 9, 2003

AN ACT

1 Amending the act of July 28, 1988 (P.L.556, No.101), entitled
2 "An act providing for planning for the processing and
3 disposal of municipal waste; requiring counties to submit
4 plans for municipal waste management systems within their
5 boundaries; authorizing grants to counties and municipalities
6 for planning, resource recovery and recycling; imposing and
7 collecting fees; establishing certain rights for host
8 municipalities; requiring municipalities to implement
9 recycling programs; requiring Commonwealth agencies to
10 procure recycled materials; imposing duties; granting powers
11 to counties and municipalities; authorizing the Environmental
12 Quality Board to adopt regulations; authorizing the
13 Department of Environmental Resources to implement this act;
14 providing remedies; prescribing penalties; establishing a
15 fund; and making repeals," providing for municipal waste
16 transportation fees.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The act of July 28, 1988 (P.L.556, No.101), known
20 as the Municipal Waste Planning, Recycling and Waste Reduction
21 Act, is amended by adding a chapter to read:

22 CHAPTER 8

23 MUNICIPAL WASTE TRANSPORTATION FEES

24 Section 801. Fee for disposing municipal waste at municipal

1 waste landfills more than 50 miles from site of
2 collection.

3 (a) Imposition.--There is imposed a municipal waste
4 transportation fee of \$2 per ton on all solid waste transported
5 to and disposed of at a municipal waste landfill if the solid
6 waste is transported to the municipal waste landfill from a
7 distance of 50 miles or more. For purposes of calculating
8 mileage under this section, all solid waste transported to a
9 municipal waste landfill shall be deemed to have been collected
10 at the principal place of business of the person transporting
11 the solid waste to the municipal waste landfill. The fee shall
12 be paid by the operator of each municipal waste landfill to the
13 host municipality. If a municipal waste landfill is located in
14 more than one host municipality, the paid fee shall be divided
15 equally among the host municipalities.

16 (b) Alternative calculation.--For operators of municipal
17 waste landfills that do not weigh solid waste when it is
18 received, the fee established by subsection (a) shall be
19 calculated so that three cubic yards equal one ton of solid
20 waste.

21 Section 802. Form and timing of payment.

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

28 (b) Quarterly reports.--Each fee payment under this section
29 shall be accompanied by a form prepared and furnished by the
30 department and completed by the operator. The form shall state

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

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

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

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

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

18 (d) Discount.--Any operator who makes a timely payment of
19 the municipal waste transportation fee as provided in this
20 section shall be entitled to a credit against the fee payable in
21 the amount of 1% from the amount of the fee collected.

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

1 months of the date of the overpayment.

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

6 Section 803. Collection and enforcement of fee.

7 (a) Interest.--If an operator fails to make a timely payment
8 of the municipal waste transportation fee, the operator shall
9 pay interest on the unpaid amount due at the rate established
10 pursuant to section 806.1 of the act of April 9, 1929 (P.L.343,
11 No.176), known as The Fiscal Code, from the last day for timely
12 payment to the date paid.

13 (b) Additional penalty.--In addition to the interest
14 provided for in subsection (a):

15 (1) If an operator fails to make timely payment of the
16 transportation fee, there shall be added to the amount of the
17 fee actually due 5% of the amount of such fee.

18 (2) If the failure to file a timely payment is more than
19 one month, there shall be added to the amount of the fee
20 actually due an additional 5% for each additional month, or
21 fraction thereof, during which such failure continues, not to
22 exceed 25% in the aggregate.

23 (c) Assessment notices.--

24 (1) If the municipality determines that an operator has
25 not made a timely payment of the transportation fee, it shall
26 send the operator a written notice of the amount of the
27 deficiency within 30 days of determining such deficiency. If
28 the operator has not provided a complete and accurate
29 statement of the weight or volume of solid waste received at
30 the facility for the payment period, the municipality may

1 estimate the weight or volume in its notice.

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

13 (3) If it is determined through administrative or
14 judicial review of the deficiency that the amount of the
15 deficiency must be reduced, the host municipality shall
16 within 30 days remit the appropriate amount to the operator,
17 with any interest accrued by the escrow deposit.

18 (4) The amount determined after administrative hearing
19 or after waiver of administrative hearing shall be payable to
20 the host municipality and shall be collectible in the manner
21 provided in section 1709.

22 (5) Notwithstanding any law to the contrary, an action
23 brought by a host municipality pursuant to this section must
24 be commenced within five years from the date of the
25 deficiency.

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

1 (d) Filing of appeals.--Notwithstanding any other provision
2 of law, all appeals of final department actions concerning the
3 fee, including, but not limited to, petitions for refunds, shall
4 be filed with the Environmental Hearing Board.

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

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

18 Section 804. Records.

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

27 Section 805. Surcharge.

28 Notwithstanding any law to the contrary:

29 (1) An operator may collect the municipal waste
30 transportation fee established by this chapter as a surcharge

1 on any fee schedule established pursuant to law, ordinance,
2 resolution or contract for solid waste processing or disposal
3 operations at the facility.

4 (2) Any person who collects or transports solid waste
5 subject to the transportation fee to a municipal waste
6 landfill may impose a surcharge on any fee schedule
7 established pursuant to law, ordinance, resolution or
8 contract for the collection or transportation of solid waste
9 to the facility. The surcharge shall be equal to the increase
10 in disposal fees at the facility attributable to the fee,
11 provided that interest and penalties on the fee under section
12 803(a) and (b) may not be collected as a surcharge.

13 Section 2. This act shall take effect in 60 days.