

SENATE BILL No. 432

By Committee on Ways and Means

2-15

1 AN ACT concerning solid waste; relating to yard waste; amending K.S.A.
2 2011 Supp. 65-3402 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) The purpose of this section is to implement the
6 state policy contained in subsection (e) of K.S.A. 65-3401, and
7 amendments thereto, encouraging the development of strategies that
8 reduce, reuse and recycle materials, by the adoption of yard waste
9 prohibitions at municipal solid waste landfills, in order to preserve their
10 future capacity for the public health, safety and welfare.

11 (b) A municipal solid waste landfill is hereby prohibited from
12 receiving yard waste for disposal within the municipal solid waste landfill;
13 however, this prohibition shall not apply to:

14 (1) The disposal of source separated yard waste at a composting
15 facility that:

16 (A) Has obtained a permit from the secretary; and

17 (B) is located within a municipal solid waste landfill; or

18 (2) any municipal solid waste landfill in the state that qualifies for the
19 exemption contained in subsection (f)(l) of 40 C.F.R. § 258.1 in effect on
20 the effective date of this act.

21 Owners or operators of municipal solid waste landfills must apply
22 annually for the exemption provided in this subsection and submit to the
23 secretary written documentation to demonstrate the qualifications for the
24 exemption, prior to disposal of yard waste in a municipal solid waste
25 landfill. If the exemption is disapproved, the secretary shall furnish all the
26 reasons for such disapproval.

27 (c) Municipal solid waste landfill owners or operators shall
28 implement a yard waste restriction program by:

29 (1) Posting signs in proximity to each public entrance stating the yard
30 waste restrictions applicable to the municipal solid waste landfill; and

31 (2) implementing a written yard waste restriction program approved
32 by the secretary, that shall consist of the following:

33 (A) Implementing procedures for notifying persons transporting solid
34 waste to the municipal solid waste landfill of the yard waste restrictions at
35 the facility;

36 (B) implementing procedures for distributing information to the public

1 regarding alternative yard waste management methods;

2 (C) implementing procedures for distributing information regarding
3 facility names and locations of the Kansas department of health and
4 environment permitted composting facilities in the county in which the
5 municipal solid waste landfill is located, to persons transporting solid
6 waste to the municipal solid waste landfills;

7 (D) implementing procedures for identifying vehicles dedicated to
8 yard waste collection or vehicles transporting portable containers
9 dedicated to yard waste collection;

10 (E) implementing procedures for the recording instances in which the
11 municipal solid waste landfill refused acceptance of a vehicle or its
12 contents due to the presence of source separated yard waste or mixed yard
13 waste in the vehicle load;

14 (F) implementing procedures for recording the instances in which the
15 municipal solid waste landfill conducted a search of a vehicle load to
16 determine compliance with yard waste restrictions;

17 (G) maintaining the yard waste restriction program document at the
18 municipal solid waste landfill;

19 (H) periodically reviewing the yard waste restriction program and its
20 requirements to ensure the control of the acceptance of yard waste at the
21 municipal solid waste landfill;

22 (I) revising the written program, as deemed necessary by the
23 secretary, when either of the following occur:

24 (i) The discovery by the owner or operator of the municipal solid
25 waste landfill that source separated yard waste has been accepted for
26 disposal at the municipal solid waste landfill; or

27 (ii) upon notification by the Kansas department of health and
28 environment or the approved local authority that source separated yard
29 waste or mixed yard waste has been accepted for disposal at the municipal
30 solid waste landfill.

31 (c) If the secretary or the secretary's designee, determines after notice
32 and opportunity for a hearing pursuant to the Kansas administrative
33 procedure act, that any person has engaged in any act or practice
34 constituting a violation of the provisions of this section, then the secretary
35 or the secretary's designee, by order, may require any or all of the
36 following:

37 (1) That the person cease and desist from the unlawful act or practice;

38 (2) that the person pay a fine not to exceed \$2,500 per incident for the
39 unlawful act or practice;

40 (3) issue an order requiring the person to disgorge any profits arising
41 from the violation. Such order may include the assessment of interest not
42 to exceed 8% *per annum* from the date of the violation; and

43 (4) repeal the person's permit, if any, issued by the secretary under

1 this act, or bar or suspend the person from applying for any permit under
2 this act.

3 (d) It shall be a defense to an alleged violation of this section for the
4 owner or operator of a municipal solid waste landfill to have disposed of
5 yard waste resulting from the incidental acceptance of yard waste at a
6 municipal solid waste landfill.

7 Sec. 2. K.S.A. 2011 Supp. 65-3402 is hereby amended to read as
8 follows: 65-3402. As used in this act, unless the context otherwise
9 requires:

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

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

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

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

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

38 (f) "Waters of the state" means all streams and springs, and all bodies
39 of surface or groundwater, whether natural or artificial, within the
40 boundaries of the state.

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

42 (h) "Department" means the Kansas department of health and
43 environment.

1 (i) "Disposal" means the discharge, deposit, injection, dumping,
2 spilling, leaking or placing of any solid waste into or on any land or water
3 so that such solid waste or any constituent thereof may enter the
4 environment or be emitted into the air or discharged into any water.

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

10 (k) "Generator" means any person who produces or brings into
11 existence solid waste.

12 (l) "Monitoring" means all procedures used to: (1) Systematically
13 inspect and collect data on the operational parameters of a facility, an area
14 or a transporter; or (2) ~~to~~ systematically collect and analyze data on the
15 quality of the air, groundwater, surface water or soils on or in the vicinity
16 of a solid waste processing facility or solid waste disposal area.

17 (m) "Closure" means the permanent cessation of active disposal
18 operations, abandonment of the disposal area, revocation of the permit or
19 filling with waste of all areas and volume specified in the permit and
20 preparing the area for the long-term care.

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

23 (o) "Reclamation facility" means any location at which material
24 containing a component defined as a hazardous substance pursuant to
25 K.S.A. 65-3452a, and amendments thereto, or as an industrial waste
26 pursuant to this section is processed.

27 (p) "Designated city" means a city or group of cities which, through
28 interlocal agreement with the county in which they are located, is
29 delegated the responsibility for preparation, adoption or implementation of
30 the county solid waste plan.

31 (q) "Nonhazardous special waste" means any solid waste designated
32 by the secretary as requiring extraordinary handling in a solid waste
33 disposal area.

34 (r) "Recyclables" means any materials that will be used or reused, or
35 prepared for use or reuse, as an ingredient in an industrial process to make
36 a product, or as an effective substitute for a commercial product.
37 "Recyclables" includes, but is not limited to, paper, glass, plastic,
38 municipal water treatment residues, as defined by K.S.A. 65-163, and
39 amendments thereto, and metal, but does not include yard waste.

40 (s) "Scrap material processing industry" means any person who
41 accepts, processes and markets recyclables.

42 (t) "Scrap material recycling and processing facility" means a fixed
43 location that utilizes machinery and equipment for processing only

1 recyclables.

2 (u) "Construction and demolition waste" means solid waste resulting
3 from the construction, remodeling, repair and demolition of structures,
4 roads, sidewalks and utilities; untreated wood and untreated sawdust from
5 any source; treated wood from construction or demolition projects; small
6 amounts of municipal solid waste generated by the consumption of food
7 and drinks at construction or demolition sites, including, but not limited to,
8 cups, bags and bottles; furniture and appliances from which ozone
9 depleting chlorofluorocarbons have been removed in accordance with the
10 provisions of the federal clean air act; solid waste consisting of motor
11 vehicle window glass; and solid waste consisting of vegetation from land
12 clearing and grubbing, utility maintenance, and seasonal or storm-related
13 cleanup. Such wastes include, but are not limited to, bricks, concrete and
14 other masonry materials, roofing materials, soil, rock, wood, wood
15 products, wall or floor coverings, plaster, drywall, plumbing fixtures,
16 electrical wiring, electrical components containing no hazardous materials,
17 nonasbestos insulation and construction related packaging. "Construction
18 and demolition waste" shall not include waste material containing friable
19 asbestos, garbage, furniture and appliances from which ozone depleting
20 chlorofluorocarbons have not been removed in accordance with the
21 provisions of the federal clean air act, electrical equipment containing
22 hazardous materials, tires, drums and containers even though such wastes
23 resulted from construction and demolition activities. Clean rubble that is
24 mixed with other construction and demolition waste during demolition or
25 transportation shall be considered to be construction and demolition waste.

26 (v) "Construction and demolition landfill" means a permitted solid
27 waste disposal area used exclusively for the disposal on land of
28 construction and demolition wastes. This term shall not include a site that
29 is used exclusively for the disposal of clean rubble.

30 (w) "Clean rubble" means the following types of construction and
31 demolition waste: Concrete and concrete products including reinforcing
32 steel, asphalt pavement, brick, rock and uncontaminated soil as defined in
33 rules and regulations adopted by the secretary.

34 (x) "Industrial waste" means all solid waste resulting from
35 manufacturing, commercial and industrial processes which is not suitable
36 for discharge to a sanitary sewer or treatment in a community sewage
37 treatment plant or is not beneficially used in a manner that meets the
38 definition of recyclables. Industrial waste includes, but is not limited to:
39 Mining wastes from extraction, beneficiation and processing of ores and
40 minerals unless those minerals are returned to the mine site; fly ash,
41 bottom ash, slag and flue gas emission wastes generated primarily from
42 the combustion of coal or other fossil fuels; cement kiln dust; waste oil and
43 sludges; waste oil filters; and fluorescent lamps.

1 (y) "Composting facility" means any facility that composts wastes
2 and has a composting area larger than one-half acre.

3 (z) "Household hazardous waste facility" means a facility established
4 for the purpose of collecting, accumulating and managing household
5 hazardous waste and may also include small quantity generator waste or
6 agricultural pesticide waste, or both. Household hazardous wastes are
7 consumer products that when discarded exhibit hazardous characteristics.

8 (aa) "Waste-to-energy facility" means a facility that processes solid
9 waste to produce energy or fuel.

10 (bb) "Transfer station" means any facility where solid wastes are
11 transferred from one vehicle to another or where solid wastes are stored
12 and consolidated before being transported elsewhere, but shall not include
13 a collection box provided for public use as a part of a county-operated
14 solid waste management system if the box is not equipped with
15 compaction mechanisms or has a volume smaller than 20 cubic yards.

16 (cc) "Municipal solid waste landfill" means a solid waste disposal
17 area where residential waste is placed for disposal. A municipal solid
18 waste landfill also may receive other nonhazardous wastes, including
19 commercial solid waste, sludge and industrial solid waste. *A municipal*
20 *yard waste landfill shall accept only yard waste pursuant to section 1, and*
21 *amendments thereto.*

22 (dd) "Construction related packaging" means small quantities of
23 packaging wastes that are generated in the construction, remodeling or
24 repair of structures and related appurtenances. "Construction related
25 packaging" does not include packaging wastes that are generated at retail
26 establishments selling construction materials, chemical containers
27 generated from any source or packaging wastes generated during
28 maintenance of existing structures.

29 (ee) "Industrial facility" includes all operations, processes and
30 structures involved in the manufacture or production of goods, materials,
31 commodities or other products located on, or adjacent to, an industrial site
32 and is not limited to a single owner or to a single industrial process. For
33 purposes of this act, it includes all industrial processes and applications
34 that may generate industrial waste which may be disposed at a solid waste
35 disposal area which is permitted by the secretary and operated for the
36 industrial facility generating the waste and used only for industrial waste.

37 (ff) *"Yard waste" means leaves, grass clippings and tree and brush*
38 *trimmings, but does not include agricultural waste.*

39 (gg) *"Source separated yard waste" means yard waste that has been*
40 *separated at the point of generation or at the point of collection from other*
41 *solid wastes and includes, but is not limited to, such measures as placing*
42 *yard waste in portable paper containers dedicated to yard waste collection*
43 *and vehicles dedicated to yard waste collection.*

1 *(hh) "Mixed yard waste" means yard waste that has been commingled*
2 *with other solid waste. Mixed yard waste includes containerized source*
3 *separated yard waste but is not limited to yard waste in paper or plastic*
4 *bags where such bags are commingled with other solid wastes.*

5 *(ii) "Incidental acceptance of yard waste" means source separated*
6 *yard waste or mixed yard waste that is placed at the working face of the*
7 *municipal solid waste landfill or commingled with other solid wastes at*
8 *the generation site or transfer station, despite the municipal solid waste*
9 *landfill owner's or operator's implementation of and full compliance with*
10 *a yard waste restriction program.*

11 *(jj) "Yard waste restriction program" means the requirement of the*
12 *owner or operator of a municipal solid waste landfill to implement and*
13 *fully comply with a program to ensure the control of acceptance of yard*
14 *waste, either source separated or mixed, at the municipal solid waste*
15 *landfills.*

16 Sec. 3. K.S.A. 2011 Supp. 65-3402 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.