

1 HB140
2 203844-1
3 By Representative Baker
4 RFD: County and Municipal Government
5 First Read: 04-FEB-20

SYNOPSIS: This bill would clarify existing law relating to disposal of solid waste, to provide that landfills covered by substances other than earth are included within the definition of a landfill.

A BILL
TO BE ENTITLED
AN ACT

Relating to solid waste disposal; to amend Section 22-27-2, Code of Alabama 1975, to provide that landfills covered by substances other than earth are included within the definition of a landfill.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-27-2, Code of Alabama 1975, is amended to read as follows:

"§22-27-2.

1 "For the purpose of this article, the following
2 terms shall have the meanings respectively ascribed to them by
3 this section:

4 "(1) AGENCY. Any controlling agency, public or
5 private, elected, appointed, or volunteer utilizing methods
6 approved by the health department or the department for the
7 purpose of controlling and supervising the collection or
8 management of solid wastes or recyclable materials.

9 "(2) ASHES. The solid residue from burning of wood,
10 coal, coke, or other combustible material used for heating,
11 from incineration of solid wastes, or for the production of
12 electricity at electric generating plants.

13 "(3) COAL COMBUSTION BY-PRODUCTS. Fly ash, bottom
14 ash, boiler slag, or flue gas emission control by-products
15 which result primarily from the combustion of coal or other
16 fossil fuels at electric generating plants.

17 "(4) COMPOSTING OR COMPOST PLANT. An officially
18 controlled method or operation whereby putrescible solid
19 wastes are broken down through microbic action to a material
20 offering no hazard or nuisance factors to public health or
21 well-being.

22 "(5) DEPARTMENT. The Alabama Department of
23 Environmental Management.

24 "(6) DIRECTOR. The Director of the Alabama
25 Department of Environmental Management or his or her designee.

1 "(7) DISCHARGE. The accidental or intentional
2 spilling, leaking, pumping, emitting, emptying, or dumping of
3 solid waste, including leachate, into or on any land or water.

4 "(8) DISPOSAL. The discharge, deposit, injection,
5 dumping, spilling, leaking, or placing of any solid waste into
6 or on any land or water so that the waste or any constituent
7 thereof may enter the environment or be emitted into the air
8 or discharged into any waters, including, but not limited to,
9 ground waters.

10 "(9) FACILITY. All contiguous land, structures, and
11 other appurtenances used for the processing, treatment,
12 storage, or disposal of solid waste, or the recovery of
13 recyclable materials from solid waste, whether or not
14 authorized or permitted, including, but not limited to, waste
15 disposal areas and waste disposed therein.

16 "(10) FINANCIAL ASSURANCE. A financial arrangement
17 by the owner or operator of a municipal solid waste landfill
18 which guarantees the availability of funds which may be used
19 to close, provide post-closure care, or conduct corrective
20 action at that facility if the owner or operator fails to
21 properly execute his or her responsibilities under this
22 article and any rules promulgated by the department for
23 closure, post-closure care, or corrective action and the terms
24 of any permit issued for operation of that facility.

25 "(11) GARBAGE. Putrescible animal and vegetable
26 wastes resulting from the handling, preparation, cooking, and
27 consumption of food, including wastes from markets, storage

1 facilities, handling and sale of produce and other food
2 products and excepting such materials that may be serviced by
3 garbage grinders and handled as household sewage.

4 "(12) GENERATION. The act or process of producing
5 solid waste. Solid waste shall be considered to be generated
6 at the point that waste materials are first discarded or
7 collected, regardless of any subsequent materials recovery or
8 recycling.

9 "(13) HAZARDOUS WASTES. Those wastes defined in, and
10 regulated under, the Alabama Hazardous Waste Management and
11 Minimization Act of 1978, as amended.

12 "(14) HEALTH DEPARTMENT. An approved county or
13 district health department, including the Alabama State
14 Department of Public Health and the affected state and county
15 health department.

16 "(15) HEALTH OFFICER. The state or affected county
17 health officer or his or her designee.

18 "(16) HOUSEHOLD WASTE. Any solid waste, including,
19 but not limited to, garbage, trash, and sanitary waste in
20 septic tanks derived from households, including single and
21 multiple residences, hotels and motels, bunkhouses, ranger
22 stations, crew quarters, campgrounds, picnic grounds, and
23 day-use recreational areas. Sanitary waste in septic tanks
24 shall be considered as household waste only when it is
25 disposed in a landfill or unauthorized dump and its inclusion
26 as a household waste shall in no way prohibit or supersede the
27 authority of the board or the department to regulate onsite

1 sewage systems or the management of sanitary waste in septic
2 tanks.

3 "(17) INCINERATOR. A device designed to burn that
4 portion of garbage and rubbish which will be consumed at
5 temperatures generally ranging 1,600 degrees Fahrenheit or
6 over. The unburned residue from an incinerator, including
7 metal, glass, and the like shall be called ashes.

8 "(18) INDUSTRIAL SOLID WASTE. Solid waste generated
9 by manufacturing or industrial processes that is not a
10 hazardous waste regulated under Chapters 22 to 30, inclusive,
11 of this title.

12 "(19) INNOCENT LANDOWNER. An owner of real property
13 upon which there is located an unauthorized dump and who meets
14 all of the following conditions:

15 "a. The solid waste was disposed of on the property
16 after the owner acquired title to the property or the waste
17 was disposed of before the owner acquired title to the
18 property and the owner lacked actual knowledge of the waste
19 after conducting reasonable due diligence or title was
20 acquired by bequest or devise.

21 "b. The owner did not have knowledge that the waste
22 was being disposed of on the property or the owner took steps,
23 including, but not limited to, posting signs to prevent
24 disposal on the property.

25 "c. The owner did not participate in or consent to
26 the disposal of solid waste on the property.

1 "d. The owner did not receive any financial benefit
2 from the disposal of solid waste on the property.

3 "e. Title to the property was not transferred to the
4 owner for the purpose of evading liability for operating an
5 unauthorized dump.

6 "f. The person or persons responsible for disposing
7 of the solid waste on the property, in doing so, were not
8 acting as an agent for the owner.

9 "(20) LANDFILL. A method of compaction and ~~earth~~
10 cover of solid wastes other than those containing garbage or
11 other putrescible wastes, including, but not limited to, tree
12 limbs and stumps, demolition materials, incinerator residues,
13 and like materials not constituting a health or nuisance
14 hazard, where cover need not be applied on a per day used
15 basis.

16 "(21) MATERIALS RECOVERY FACILITY. A solid waste
17 management facility that provides for the extraction from
18 solid waste of recyclable materials, materials suitable for
19 use as a fuel or soil amendment, or any combination of those
20 materials. A materials recovery facility shall be deemed to be
21 a solid waste treatment facility.

22 "(22) MEDICAL WASTE. A solid waste or combination of
23 solid wastes which because of its infectious characteristics
24 may either:

25 "a. Cause, or significantly contribute to, an
26 increase in mortality or an increase in serious irreversible
27 or incapacitating reversible illness.

1 "b. Pose a substantial present hazard or potential
2 hazard to human health or the environment when improperly
3 treated, stored, transported, disposed, or otherwise managed.

4 "(23) MUNICIPAL SOLID WASTE LANDFILL. A discrete
5 area of land or an excavation that receives household waste
6 and that is not a land application unit, surface impoundment,
7 injection well, or waste pile. A municipal solid waste
8 landfill may also receive other types of solid wastes, such as
9 commercial solid waste, nonhazardous sludge, conditionally
10 exempt small quantity generator waste, industrial solid waste,
11 construction/demolition waste, and rubbish. A municipal solid
12 waste landfill is a sanitary landfill.

13 "(24) PERSON. An individual, trust, firm, joint
14 stock company, corporation (including a government
15 corporation), partnership, agent, agency, association, state,
16 municipality, commission, political subdivision of a state, an
17 interstate body, or other private or public legal entity.

18 "(25) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A
19 solid waste management facility that is operated exclusively
20 by and for a private solid waste generator for the purpose of
21 accepting solid waste generated on-site or by the permittee.

22 "(26) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A
23 solid waste management facility that accepts solid waste from
24 the public generally or for a fee or any solid waste
25 management facility that is not a private solid waste
26 management facility.

1 "(27) RECOVERED MATERIALS. Those materials which
2 have known recycling potential; which can be feasibly
3 recycled; which have been diverted or removed from the solid
4 waste stream for recycling, whether or not requiring
5 subsequent separation and processing; and which have a
6 substantial portion that is consistently used in the
7 manufacture of products which may otherwise be produced from
8 raw or virgin materials. Recovered materials shall not include
9 solvents or materials, except sawdust, bark, and paper
10 materials that are destined for incineration, energy recovery,
11 or any use which constitutes disposal. Recovered materials
12 shall only be those materials for which during the calendar
13 year, commencing on January 1, the amount of material recycled
14 or diverted from the solid waste stream for recycling and
15 transferred to a different site for recycling equals at least
16 75 percent by weight or volume of the amount of that material
17 accumulated at the beginning of the period.

18 "(28) RECOVERED MATERIALS PROCESSING FACILITY. A
19 facility primarily engaged in the storage, processing, and
20 resale or reuse of recovered materials. A recovered materials
21 processing facility is not a solid waste management facility;
22 however, any solid waste resulting from the operation of a
23 facility shall be subject to all applicable laws and
24 regulations relating to solid waste and shall be deemed to be
25 generated for purposes of reporting pursuant to solid waste
26 reduction goals, at the point of collection of the recovered
27 materials from which the solid waste resulted. A recovered

1 material processing facility shall provide notification to the
2 department according to rules adopted by the department.

3 "(29) RECYCLABLE MATERIALS. Those materials which
4 are capable of being recycled, whether or not the materials
5 have been diverted or removed from the solid waste stream.

6 "(30) RECYCLING. Any process by which materials are
7 collected, separated, stored, recovered, or processed and
8 reused or returned to use in the form of raw materials or
9 products, but does not include the use of materials as a fuel,
10 or for any use which constitutes disposal.

11 "(31) RUBBISH. Nonputrescible solid wastes,
12 excluding ashes, consisting of both combustible and
13 noncombustible wastes. Combustible rubbish includes paper,
14 rags, cartons, wood, furniture, rubber, plastics, yard
15 trimmings, leaves, and similar materials. Noncombustible
16 rubbish includes glass, crockery, metal cans, metal furniture,
17 and like materials which will not burn at ordinary incinerator
18 temperatures, not less than 1,600 degrees Fahrenheit.

19 "(32) SANITARY LANDFILL. A controlled area of land
20 upon which solid waste is deposited and is compacted and
21 covered ~~with compacted earth~~ each day as deposited, with no
22 on-site burning of wastes, and so located, contoured, and
23 drained that it will not constitute a source of water
24 pollution as determined by the department.

25 "(33) SOLID WASTE. Any garbage, rubbish,
26 construction or demolition debris, ash, or sludge from a waste
27 treatment facility, water supply plant, or air pollution

1 control facility, and any other discarded materials, including
2 solid, liquid, semisolid, or contained gaseous material
3 resulting from industrial, commercial, mining, or agricultural
4 operations or community activities, or materials intended for
5 or capable of recycling, but which have not been diverted or
6 removed from the solid waste stream. The term "solid waste"
7 does not include recovered materials, solid or dissolved
8 materials in domestic sewage, solid or dissolved material in
9 irrigation return flows, or industrial discharges which are
10 point sources subject to the National Pollutant Discharge
11 Elimination System permits under the Federal Water Pollution
12 Control Act, as amended, or the Alabama Waste Pollution
13 Control Act, as amended; or source, special, nuclear, or
14 by-product materials as defined by the Atomic Energy Act of
15 1954, as amended. Also excluded from this definition are land
16 applications of crop residues, animal manure, and ash
17 resulting exclusively from the combustion of wood during
18 accepted agricultural operations, waste from silvicultural
19 operations, or refuse as defined and regulated pursuant to the
20 Alabama Surface Mining Act of 1969, Article 1, commencing with
21 Section 9-16-1, of Chapter 16 of Title 9.

22 "(34) SOLID WASTE DISPOSAL FACILITY. Any landfill or
23 part of a facility where final deposition of solid waste
24 occurs and at which waste may remain after closure.

25 "(35) SOLID WASTE MANAGEMENT. The systematic control
26 of solid waste including its storage, processing, treatment,
27 recovery of materials from solid waste, or disposal.

1 "(36) SOLID WASTE MANAGEMENT FACILITY. Any solid
2 waste volume reduction plant, transfer station, material
3 recovery facility, or other facility, the purpose of which is
4 the storage, treatment, utilization, processing, disposal, or
5 recovery of materials from solid waste, or any combination
6 thereof.

7 "(37) UNAUTHORIZED DUMP. Any collection of solid
8 wastes either dumped or caused to be dumped or placed on any
9 public or private property, whether or not regularly used, and
10 not having a permit from the department. Abandoned
11 automobiles, large appliances, or similar large items of solid
12 waste shall be considered an unauthorized dump within the
13 meaning of this article. The careless littering of a
14 relatively few, smaller individual items such as tires,
15 bottles, cans, and the like shall not be considered an
16 unauthorized dump, unless the accumulation of solid waste
17 poses a threat to human health or the environment. An
18 unauthorized dump shall also mean any solid waste disposal
19 site which does not meet the regulatory provisions of this
20 article."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.