STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1557 By: Shurden

AS INTRODUCED

An Act relating to environment and natural resources; amending 27A O.S. 2001, Section 2-10-802, as amended by Section 1, Chapter 400, O.S.L. 2005 (27A O.S. Supp. 2005, Section 2-10-802), which relates to solid waste disposal; removing requirement for certain annual test; removing obsolete language; authorizing landfill owners or operators to retain portion of certain fee to purchase and install certain wheel wash system; stating eligibility; requiring landfill to provide certain records; stating limit of certain fees each fiscal year; authorizing Department of Environmental Quality to notify owners and operators of suspension of fees; authorizing Board of Environmental Quality to promulgate rules; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-10-802, as amended by Section 1, Chapter 400, O.S.L. 2005 (27A O.S. Supp. 2005, Section 2-10-802), is amended to read as follows:

Section 2-10-802. A. 1. Owners or operators of landfill disposal sites which are not generator owned and operated nonhazardous industrial waste monofills shall install scales ~~by January 1, 1996~~. Such scales shall be installed on or within five (5) miles of the landfill disposal site and shall be tested and certified as required by Section 14-35 of Title 2 of the Oklahoma Statutes relating to the authority of the Board of Agriculture to test ~~annually~~ the standards of weights and measures ~~used by any city or county~~ within the state and to approve if found to be correct.

2. The owner or operator shall upon receipt weigh all waste received and record the weight in writing. If scales at a disposal site are not operative, tonnage shall be estimated on a volume basis

whereby the volume reported shall be no less than the volume capacity of the containers or, if none, of the vehicles delivering the waste, and one cubic yard of solid waste shall be calculated to weigh one-third (1/3) ton. The owner or operator shall place notice in the disposal site's operating record of the time and date at which the scales became inoperable, describe the steps taken to repair them, and note the date use was resumed. If daily use has not resumed within thirty (30) days after the scales became inoperable, the owner or operator shall give written notice to the Department of Environmental Quality.

3. The owner or operator shall also maintain a written record of the weight or volume of any solid waste received which is productively reused or recovered and sold in accordance with the landfill disposal site's permit.

4. The scale location restriction of this subsection shall not apply to federal or state military installations so long as:

a. the scales are located within the physical boundary of that installation, and

b. the disposal site receives waste only from that military installation.

B. 1. Except as otherwise provided by this subsection~~, on and after January 1, 1996~~:

a. owners and operators of landfill disposal sites which receive an average of less than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal. A total of fifty cents ($.50) per ton of such fee shall be retained by the owner or operator and used exclusively for capital improvement to their facilities and for the projects required pursuant to the Oklahoma Solid Waste Management Act or the disposal site's permit for such

period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of a total of Forty Thousand Dollars ($40,000.00),

b. when the owner or operators have recouped a capital investment of the total specified in subparagraph a of this paragraph, the fee to be assessed shall be One Dollar and twenty-five cents ($1.25) per ton of solid waste received for disposal. At such time, for a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected, and

c. records documenting the projects and use of the funds shall be included with each return.

2. a. Owners and operators of landfill disposal sites which receive an average of more than one hundred (100) tons of solid waste per operating day shall assess a fee of One Dollar and fifty cents ($1.50) per ton of solid waste received for disposal, retaining twenty-five cents ($0.25) per ton for a period of time necessary to recoup a capital investment, plus the interest costs expended in purchasing the scales, of Forty Thousand Dollars ($40,000.00). At the end of such period the fee shall revert to One Dollar and twenty-five cents ($1.25) per ton. For a return with remittance filed on or before the due date, the owner or operator may deduct and retain ten percent (10%) of the fees collected.

b. Records documenting the capital investment and the use of the funds shall be included with each return.

3. <u>a. In addition to any other amount that the owner or operator may be entitled to retain from the fee under</u>

paragraphs 1 and 2 of this subsection, the owner or operator may retain ten cents ($0.10) per ton to recoup capital investment costs that have been or will be expended for the purchase and installation of a wheel wash system for use at the landfill disposal site. To be eligible to claim this recoupment allowance, the owner or operator must notify the Department no later than June 30, 2007, of the intent to claim the allowance, and the wheel wash system much be in place and operational no later than June 30, 2008. Recoupment may commence only after the wheel wash system is installed and operational.

b. upon the earlier of the recoupment of the capital investment in purchasing and installing the wheel wash system and the discontinuance of its use at the landfill disposal site, the retaining of ten cents ($0.10) per ton shall lapse and that amount shall be included in the amount remitted to the Department under this subsection.

c. the owner or operator shall provide records documenting the capital investment costs of the wheel wash system to the Department upon request and shall reflect the amount retained for this purpose on each return.

d. if the total amount retained under subparagraph a of this subsection by all eligible owners and operators reaches Three Hundred Thousand Dollars ($300,000.00) within any state fiscal year, the Department shall notify the owners and operators, and thereafter the owners and operators shall not be entitled to retain any amount under the provisions of subparagraph a of this subsection until the next state fiscal year.

e. the Environmental Quality Board is authorized to promulgate rules as necessary to implement the provisions of this act including rules specifying minimum standards or other criteria for wheel wash systems necessary to qualify for the recoupment allowance.

4. The fee shall not be imposed on:

a. the solid waste received which is productively reused or recovered in accordance with the landfill disposal site's permit. The owner or operator shall include records pertaining to this fee exemption in the quarterly return of fees to the Department, and

b. generator owned and operated nonhazardous waste land disposal monofills and waste subject to a fee pursuant to Section 2-10-803 of this title. For emergencies and other special events, the Department and the owner or operator of a site subject to this section may enter into a formal agreement to waive the fee.

~~4.~~ 5. Large industrial waste generators who generate over ten thousand (10,000) tons of nonhazardous industrial solid waste in the state in a calendar year may annually apply to the Department for a certificate exempting the disposal of such generated waste in excess of ten thousand (10,000) tons from the disposal fee authorized by this section. An applicant must have implemented a pollution prevention plan for such waste and filed it with the Department, provided operational documentation regarding such plan and paid the disposal fee on ten thousand (10,000) tons of the waste during the calendar year of application. The Department-issued exemption certificates shall be valid for the remainder of the calendar year of application, may contain conditions, and, upon presentation by authorized persons, shall be recognized by owners or operators of landfill disposal sites subject to this section. If a generator

operates a landfill solely for waste from that generator, and if that generator chooses to seek the exemption authorized by this paragraph, the generator shall not be required to install scales or keep records relative to quantity of waste received for the landfill.

~~5.~~ 6. The fee assessed by this subsection is to be a charge to waste producers in addition to any charges specified in any contract or elsewhere. The fee shall be imposed upon and passed through to disposers of waste using the facility.

~~6.~~ 7. The owner or operator of a solid waste disposal site shall collect the fee levied pursuant to this subsection as trustee for the state and shall prepare and file with the Department quarterly returns indicating:

a. the total tonnage of solid wastes received for disposal at the gate of the site, and

b. the total amount of the fees collected pursuant to this section.

~~7.~~ 8. Not later than thirty (30) days after the end of the quarter to which such a return applies, the owner or operator shall mail to the Department the return for that quarter together with the fees collected during that quarter as indicated on the return.

~~8.~~ 9. The owner or operator may receive an extension of not more than thirty (30) days for filing the return and remitting the fees, provided that:

a. the owner or operator has submitted a request for an extension in writing to the Department together with a detailed description of why the extension is requested,

b. the Department has received the request not later than the day on which the return is required to be filed, and

c. the Department has approved the request.

~~9.~~ 10. For any quarterly return filed more than thirty (30) days after the last day of the quarter or extension date, the owner or operator shall remit an additional five percent (5%) of the fees collected during the month to which the return applies. If the fees are not remitted within sixty (60) days of the last day of the quarter during which they were collected, the owner or operator shall pay an additional fifteen percent (15%) of the amount of the fees for each month that they are late.

~~10.~~ 11. If the owner or operator misrepresents, or fails to properly measure or record, the amount of waste received or fails to remit fees within sixty (60) days after the last day of the quarter during which they were collected, the landfill disposal site's permit shall be summarily suspended by order and the Department shall initiate the process of revoking the permit and may require closure of the landfill.

C. 1. The Department shall expend funds collected pursuant to the provisions of this section solely for the administration and enforcement of the provisions of the Oklahoma Solid Waste Management Act and for the development of solid waste technical assistance programs, solid waste public environmental education programs and educational curricula, solid waste studies, development of a statewide solid waste plan, solid waste recycling and litter prevention programs, and other environmental improvements.

2. In order to assist the Department of Environmental Quality regarding its responsibilities relating to the promotion of recycling of solid waste, ~~beginning July 1, 1996, and~~ each fiscal year ~~thereafter,~~ the Department shall contract with units of local government, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities or counties, or substate planning districts recognized by the Oklahoma Department of Commerce, for up to a total of One Hundred Thousand Dollars

($100,000.00) and to the extent such monies are available for projects promoting the recycling of solid waste. Local governments, political subdivisions of this state, components of The Oklahoma State System of Higher Education, local and statewide organizations representing municipalities and counties and substate planning districts recognized by the Oklahoma Department of Commerce desiring to contract with the Department for such projects shall meet the application requirements of rules promulgated by the Environmental Quality Board and the criteria established by a recycling priorities plan prepared annually by the Department after review and comment by the Solid Waste Management Advisory Council. Except as otherwise provided by this section, contracts for such projects shall not be granted to state agencies.

3. Any litter prevention program shall be developed by the Department in conjunction with the Department of Transportation.

4. a. To the extent that funds are available, the Department may also reimburse any governmental entity for equipment other than motor vehicles or buildings to separate, process, modify, convert or treat solid waste or recovered materials so that the resulting product is being used in a productive manner.

   b. The reimbursements shall be from solid waste fee funds and shall not exceed twenty-five percent (25%) of the person's total project costs. No reimbursement may be larger than Twenty Thousand Dollars ($20,000.00).

   c. Reimbursements must be expended in accordance with rules promulgated by the Environmental Quality Board and criteria established through the Department's annual recycling priorities plan. The Department shall not expend more than Two Hundred Thousand Dollars ($200,000.00) in each fiscal year for such reimbursements, nor shall the Department reimburse

waste tire facilities that may be eligible for compensation from the Waste Tire Recycling Indemnity Fund.

5. a. The Department, in conjunction with the Corporation Commission, the Oklahoma Energy Resources Board and the Oklahoma Conservation Commission, may develop a plan to use suitable portions of the solid waste stream to reclaim Oklahoma lands damaged by oil and gas exploration and production or by mining activities.

b. To the extent that funds are available, the Department may use up to ten percent (10%) of the annual income from the fees received pursuant to the provisions of this section to implement the plan. The Department may use its discretion in administering the funds for the purpose of this paragraph, but shall keep records subject to audit by the State Auditor and Inspector for good business practices.

6. a. To the extent that funds are available, after having reasonably met other specified uses of the solid waste fund, the Department is authorized to expend up to five percent (5%) of the total annual solid waste fee income for the purpose of making incentive payments to any person, firm or corporation located in this state generating energy by utilizing solid waste landfill methane.

b. The Environmental Quality Board shall promulgate rules to administer the provisions of this paragraph.

c. No person, firm or corporation shall be eligible to receive incentive payments as provided in subparagraph a of this paragraph for more than three (3) years. The amount of such payments shall be determined by the

Department based on the amount of energy generated and the cost of production.

D. The provisions of this section shall not apply to landfill disposal sites that receive only ash generated by the burning of coal.

E. On or before September 1~~, 1996, and September 1~~ of each year ~~thereafter,~~ the Department of Environmental Quality shall prepare a report of income and expenditures for the period of each fiscal year in which solid waste fee monies authorized by this section were received and such report shall be distributed to members of the Solid Waste Management Advisory Council for review. By November 1 of each year the Council shall submit to the Executive Director, Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate, its written comments on the comparison of income with program expenditures.

SECTION 2. This act shall become effective July 1, 2006.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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