

**As Passed by the House**

**125th General Assembly  
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2003-2004**

**Am. Sub. H. B. No. 432**

**Representatives Webster, McGregor, Wolpert, Niehaus, Aslanides, Setzer,  
Flowers**

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**A B I L L**

To amend sections 3714.01 and 3714.09, to enact new 1  
section 3714.07 and section 3714.021, and to 2  
repeal section 3714.07 of the Revised Code to 3  
replace the construction and demolition debris 4  
facility license fee with a fee on the disposal of 5  
construction and demolition debris at construction 6  
and demolition debris facilities and solid waste 7  
facilities, and to revise the definition of 8  
"construction and demolition debris." 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3714.01 and 3714.09 be amended and 10  
new section 3714.07 and section 3714.021 of the Revised Code be 11  
enacted to read as follows: 12

**Sec. 3714.01.** As used in this chapter: 13

(A) "Board of health" means the board of health of a city or 14  
general health district or the authority having the duties of a 15  
board of health in any city as authorized by section 3709.05 of 16  
the Revised Code. 17

(B) "Closure" means either the time at which a construction 18  
and demolition debris facility will no longer accept construction 19

and demolition debris for disposal or the effective date of an 20  
order revoking the license of the facility. ~~The term~~ "Closure" 21  
includes measures performed to protect public health or safety, to 22  
prevent air or water pollution, or to make the facility suitable 23  
for other uses, if any, including, without limitation, the 24  
establishment and maintenance of suitable cover of soil and 25  
vegetation over areas where construction and demolition debris is 26  
buried and the minimization of erosion, the infiltration of 27  
surface water into such areas, the production of leachate, and the 28  
accumulation and runoff of contaminated surface water. 29

(C) "Construction and demolition debris" means those 30  
materials resulting from the alteration, construction, 31  
destruction, rehabilitation, or repair of any ~~manmade~~ physical 32  
structure that is built by humans, including, without limitation, 33  
houses, buildings, industrial or commercial facilities, or 34  
roadways. "Construction and demolition debris" includes particles 35  
and dust created during demolition activities and through 36  
transport. "Construction and demolition debris" does not include 37  
materials identified or listed as solid wastes or hazardous waste 38  
pursuant to Chapter 3734. of the Revised Code and rules adopted 39  
under it; materials from mining operations, nontoxic fly ash, 40  
spent nontoxic foundry sand, and slag; ~~or~~ reinforced or 41  
nonreinforced concrete, asphalt, building or paving brick, or 42  
building or paving stone that is stored for a period of less than 43  
two years for recycling into a usable construction material; or 44  
inorganic arsenical pressure-treated wood, including, without 45  
limitation, wood treated with chromate copper arsenate, ammoniacal 46  
copper arsenate, or ammoniacal copper zinc arsenate. 47

(D) "Disposal" means the discharge, deposit, injection, 48  
dumping, spilling, leaking, emitting, or placing of any 49  
construction and demolition debris into or on any land or ground 50  
or surface water or into the air, except if the disposition or 51

cement constitutes storage. 52

(E) "Facility" means any site, location, tract of land, 53  
installation, or building used for the disposal of construction 54  
and demolition debris. "Facility" does not include any 55  
construction site where construction debris and trees and brush 56  
removed in clearing the construction site are used as fill 57  
material on the site where the materials are generated or removed 58  
and does not include any site where materials composed exclusively 59  
of reinforced or nonreinforced concrete, asphalt, clay tile, 60  
building or paving brick, or building or paving stone are used as 61  
fill material, either alone or in conjunction with clean soil, 62  
sand, gravel, or other clean aggregates, in legitimate fill 63  
operations for construction purposes or to bring the site up to a 64  
consistent grade. 65

(F) "Health district" means a city or general health district 66  
created by or under the authority of Chapter 3709. of the Revised 67  
Code. 68

(G) "Person" includes the state, any political subdivision of 69  
the state or other state or local body, the United States and any 70  
agency or instrumentality thereof, and any legal entity or 71  
organization defined as a person under section 1.59 of the Revised 72  
Code. 73

(H) "Storage" means the holding of construction and 74  
demolition debris for a temporary period in such a manner that it 75  
remains retrievable and substantially unchanged and, at the end of 76  
the period, is disposed of or reused or recycled in a beneficial 77  
manner. 78

Sec. 3714.021. (A) As used in this section, "working face" 79  
means the portion of a construction and demolition debris facility 80  
where construction and demolition debris is placed for final 81  
disposal. 82

(B) The owner or operator of a construction and demolition debris facility that is licensed under this chapter shall attempt to remove all solid wastes from construction and demolition debris prior to the disposal of the construction and demolition debris on the working face of the facility. Except as otherwise provided in this division, the existence of solid wastes on the working face of a construction and demolition debris facility does not constitute a violation of this chapter and rules adopted under it if either of the following applies: 83  
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(1) The wastes constitute not more than two cubic yards per one thousand cubic yards of construction and demolition debris or four cubic yards per one thousand tons of construction and demolition debris disposed of at the construction and demolition debris facility based on the amount of construction and demolition debris disposed of at the facility on the preceding full business day as determined by using the amount of disposal fees collected under section 3714.07 of the Revised Code for wastes disposed of at the facility on that preceding full business day. 92  
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(2) The owner or operator or the employees of the facility remove the solid wastes from the working face of the facility. 101  
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The existence of solid wastes on the working face of a construction and demolition debris facility that is located within the boundaries of a sole source aquifer as described in division (B) of section 3714.03 of the Revised Code constitutes a violation of this chapter and rules adopted under it. 103  
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(C) The board of health of the health district in which a construction and demolition debris facility is located, the director of environmental protection, or an authorized representative of either may request the removal of specific, visible solid wastes that are located on the working face of a construction and demolition debris facility. The owner or operator 108  
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or the employees of the facility shall remove those solid wastes 114  
if so requested. 115

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 116  
health and the environmental protection agency in administering 117  
and enforcing this chapter and rules adopted under it, there is 118  
hereby levied on the disposal of construction and demolition 119  
debris at a construction and demolition debris facility that is 120  
licensed under this chapter or at a solid waste facility that is 121  
licensed under Chapter 3734. of the Revised Code a fee of thirty 122  
cents per cubic yard or sixty cents per ton, as applicable. 123

(2) If construction and demolition debris is disposed of at a 124  
construction and demolition debris facility, the owner or operator 125  
of the facility shall determine if cubic yards or tons will be 126  
used as the unit of measurement. In estimating the fee based on 127  
cubic yards, the owner or operator shall utilize either the 128  
maximum cubic yard capacity of the container, or the hauling 129  
volume of the vehicle, that transports the construction and 130  
demolition debris to the facility or the cubic yards actually 131  
logged for disposal by the owner or operator in accordance with 132  
rules adopted under section 3714.02 of the Revised Code. If basing 133  
the fee on tonnage, the owner or operator shall use certified 134  
scales to determine the tonnage of construction and demolition 135  
debris that is transported to the facility for disposal. 136

(3) If construction and demolition debris is disposed of at a 137  
solid waste facility, the owner or operator of the facility shall 138  
assess the fee on a per cubic yard or per ton basis as designated 139  
in the solid waste management plan of the solid waste management 140  
district in which the facility is located for the collection of 141  
the district's solid waste disposal fee pursuant to division (B) 142  
of section 3734.57 of the Revised Code. 143

(4) The owner or operator of a construction and demolition 144

debris facility or a solid waste facility shall collect the fee 145  
levied under division (A) of this section as a trustee for the 146  
health district having jurisdiction over the facility, if that 147  
district is on the approved list under section 3714.09 of the 148  
Revised Code, or for the state. The owner or operator shall 149  
prepare and file with the appropriate board of health or the 150  
director of environmental protection monthly returns indicating 151  
the total volume or weight, as applicable, of construction and 152  
demolition debris received for disposal at the facility and the 153  
total amount of money required to be collected on the construction 154  
and demolition debris disposed of during that month. Not later 155  
than thirty days after the last day of the month to which the 156  
return applies, the owner or operator shall mail to the board of 157  
health or the director the return for that month together with the 158  
money required to be collected on the construction and demolition 159  
debris disposed of during that month. The owner or operator may 160  
request, in writing, an extension of not more than thirty days 161  
after the last day of the month to which the return applies. A 162  
request for extension may be denied. If the owner or operator 163  
submits the money late, the owner or operator shall pay a penalty 164  
of ten per cent of the amount of the money due for each month that 165  
it is late. 166

(5) Of the money that is collected from a construction and 167  
demolition debris facility or a solid waste facility on a per 168  
cubic yard or per ton basis under this section, a board of health 169  
shall transmit three cents per cubic yard or six cents per ton, as 170  
applicable, to the director not later than forty-five days after 171  
the receipt of the money. The money retained by a board of health 172  
under this section shall be paid into a special fund, which is 173  
hereby created in each health district, and used solely to 174  
administer and enforce this chapter and rules adopted under it. 175

The director shall transmit all money received from the 176

boards of health of health districts under this section and all 177  
money from the disposal fee collected by the director under this 178  
section to the treasurer of state to be credited to the 179  
construction and demolition debris facility oversight fund, which 180  
is hereby created in the state treasury. The fund shall be 181  
administered by the director, and money credited to the fund shall 182  
be used exclusively for the administration and enforcement of this 183  
chapter and rules adopted under it. 184

(B) The board of health of a health district or the director 185  
may enter into an agreement with the owner or operator of a 186  
construction and demolition debris facility or a solid waste 187  
facility for the quarterly payment of the money collected from the 188  
disposal fee. The board of health shall notify the director of any 189  
such agreement. Not later than forty-five days after receipt of 190  
the quarterly payment, the board of health shall transmit the 191  
amount established in division (A)(5) of this section to the 192  
director. The money retained by the board of health shall be 193  
deposited in the special fund of the district as required under 194  
that division. Upon receipt of the money from a board of health, 195  
the director shall transmit the money to the treasurer of state to 196  
be credited to the construction and demolition debris facility 197  
oversight fund. 198

(C) If a construction and demolition debris facility or a 199  
solid waste facility is located within the territorial boundaries 200  
of a municipal corporation or the unincorporated area of a 201  
township, the municipal corporation or township may appropriate up 202  
to four cents per cubic yard or up to eight cents per ton of the 203  
disposal fee required to be paid by the facility under division 204  
(A) of this section for the same purposes that a municipal 205  
corporation or township may levy a fee under division (C) of 206  
section 3734.57 of the Revised Code. 207

The legislative authority of the municipal corporation or 208

township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money collected from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease collecting money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be



paid by the facility under division (A) of this section for the 241  
same purposes that a solid waste management district may levy a 242  
fee under division (B) of section 3734.57 of the Revised Code. 243

The board of county commissioners may appropriate the money 244  
from the fee by adopting a resolution establishing the amount of 245  
the fee to be appropriated. Upon doing so, the board of county 246  
commissioners shall mail a certified copy of the resolution to the 247  
board of health of the health district in which the construction 248  
and demolition debris facility or the solid waste facility is 249  
located or, if the facility is located in a health district that 250  
is not on the approved list under section 3714.09 of the Revised 251  
Code, to the director. Upon receipt of the copy of the resolution 252  
and not later than forty-five days after receipt of money 253  
collected from the fee, the board of health or the director, as 254  
applicable, shall transmit to the treasurer of the county that 255  
portion of the money collected from the disposal fee by the owner 256  
or operator of the facility that is required by the resolution to 257  
be paid to that county. 258

Money received by a county treasurer under this division 259  
shall be paid into the general fund of the county. The county 260  
treasurer shall maintain separate records of the money received 261  
under this division. 262

A board of county commissioners may cease collecting money 263  
under this division by repealing the resolution that was adopted 264  
under this division. 265

(E)(1) This section does not apply to the disposal of 266  
construction and demolition debris at a solid waste facility that 267  
is licensed under Chapter 3734. of the Revised Code if there is no 268  
construction and demolition debris facility licensed under this 269  
chapter within forty miles of the solid waste facility as 270  
determined by a facility's property boundaries. 271

(2) This section does not apply to the disposal of 272  
construction and demolition debris at a solid waste facility that 273  
is licensed under Chapter 3734. of the Revised Code if the owner 274  
or operator of the facility collects fees under that chapter on 275  
the disposal of the construction and demolition debris. 276

**Sec. 3714.09.** (A) The director of environmental protection 277  
shall place each health district that is on the approved list 278  
under division (A) or (B) of section 3734.08 of the Revised Code 279  
on the approved list for the purposes of issuing licenses under 280  
section 3714.06 of the Revised Code. Any survey or resurvey of any 281  
such health district conducted under section 3734.08 of the 282  
Revised Code shall also determine whether there is substantial 283  
compliance with this chapter. If the director removes any such 284  
health district from the approved list under division (B) of that 285  
section, ~~he~~ the director shall also remove the health district 286  
from the approved list under this division and shall administer 287  
and enforce this chapter in the health district until the health 288  
district is placed on the approved list under division (B) of 289  
section 3734.08 of the Revised Code or division (B)(1) of this 290  
section. 291

(B)(1) Upon the request of the board of health of a health 292  
district that is not on the approved list under division (A) or 293  
(B) of section 3734.08 of the Revised Code, the director may place 294  
the board on the approved list for the purpose of licensing 295  
construction and demolition debris facilities under section 296  
3714.06 of the Revised Code if ~~he~~ the director determines that the 297  
board is both capable of and willing to enforce all of the 298  
applicable requirements of this chapter and rules adopted under 299  
it. 300

(2) The director shall annually survey each health district 301  
on the approved list under division (B)(1) of this section to 302

determine whether there is substantial compliance with this 303  
chapter and rules adopted under it. Upon determining that there is 304  
substantial compliance, the director shall place the health 305  
district on the approved list under that division. The director 306  
shall make a resurvey when in ~~his~~ the director's opinion a 307  
resurvey is necessary and shall remove from the approved list 308  
under division (B)(1) of this section any health district not 309  
substantially complying with this chapter and rules adopted under 310  
it. 311

(3) If, after a survey or resurvey is made under division 312  
(B)(2) of this section, the director determines that a health 313  
district is not eligible to be placed on the approved list or to 314  
continue on that list, ~~he~~ the director shall certify that fact to 315  
the board of health of the health district and shall administer 316  
and enforce this chapter and rules adopted under it in the health 317  
district until such time as the health district is placed on the 318  
approved list. 319

(4) Whenever the director is required to administer and 320  
enforce this chapter in any health district under division (A) or 321  
(B)(3) of this section, ~~he~~ the director is hereby vested with all 322  
of the authority and all the duties granted to or imposed upon a 323  
board of health under this chapter and rules adopted under it 324  
within the health district. All ~~construction and demolition debris~~ 325  
~~facility license~~ disposal fees required to be paid to a board of 326  
health by section 3714.07 of the Revised Code and all such 327  
previous fees paid to the board, together with any money from 328  
construction and demolition debris facility license fees that were 329  
required to be paid to the board under section 3714.07 of the 330  
Revised Code as that section existed prior to the effective date 331  
of this amendment, that have not been expended or encumbered shall 332  
be paid to the director and ~~by him~~ deposited by the director to 333  
the credit of the construction and demolition debris facility 334

oversight fund created in section 3714.07 of the Revised Code. 335

(C) Nothing in this chapter limits the authority of the 336  
director to initiate and pursue any administrative remedy or to 337  
request the attorney general, the prosecuting attorney of the 338  
appropriate county, or the city director of law of the appropriate 339  
city to initiate and pursue any appropriate judicial remedy 340  
available under this chapter to enforce any provision of this 341  
chapter and any rules or terms or conditions of any license or 342  
order adopted or issued under this chapter with respect to any 343  
construction and demolition debris facility regardless of whether 344  
the facility is located in a health district that is on the 345  
approved list under division (A) or (B)(1) or (2) of this section. 346

**Section 2.** That existing sections 3714.01 and 3714.09 and 347  
section 3714.07 of the Revised Code are hereby repealed. 348

**Section 3.** The Construction and Demolition Debris Facility 349  
Oversight Fund that is created in section 3714.07 of the Revised 350  
Code, as enacted by this act, is a continuation of the 351  
Construction and Demolition Debris Facility Oversight Fund that 352  
was created in section 3714.07 of the Revised Code, as repealed by 353  
this act. Money credited to the Fund under former section 3714.07 354  
of the Revised Code shall be used for the purposes specified in 355  
section 3714.07 of the Revised Code, as enacted by this act. 356