

As Reported by the House Energy and Environment Committee

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Sub. H. B. No. 432

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

A B I L L

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

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

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

Sec. 3714.01. As used in this chapter:

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

(B) "Closure" means either the time at which a construction
and demolition debris facility will no longer accept construction
and demolition debris for disposal or the effective date of an

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. 44

(D) "Disposal" means the discharge, deposit, injection, 45
dumping, spilling, leaking, emitting, or placing of any 46
construction and demolition debris into or on any land or ground 47
or surface water or into the air, except if the disposition or 48
placement constitutes storage. 49

(E) "Facility" means any site, location, tract of land, 50
installation, or building used for the disposal of construction 51
and demolition debris. "Facility" does not include any 52

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

(F) "Health district" means a city or general health district 63
created by or under the authority of Chapter 3709. of the Revised 64
Code. 65

(G) "Person" includes the state, any political subdivision of 66
the state or other state or local body, the United States and any 67
agency or instrumentality thereof, and any legal entity or 68
organization defined as a person under section 1.59 of the Revised 69
Code. 70

(H) "Storage" means the holding of construction and 71
demolition debris for a temporary period in such a manner that it 72
remains retrievable and substantially unchanged and, at the end of 73
the period, is disposed of or reused or recycled in a beneficial 74
manner. 75

Sec. 3714.021. (A) As used in this section, "working face" 76
means the portion of a construction and demolition debris facility 77
where construction and demolition debris is placed for final 78
disposal. 79

(B) The owner or operator of a construction and demolition 80
debris facility that is licensed under this chapter shall attempt 81
to remove all solid wastes from construction and demolition debris 82
prior to the disposal of the construction and demolition debris on 83

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:

(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.

(2) The owner or operator or the employees of the facility
remove the solid wastes from the working face of the facility.

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.

(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
or the employees of the facility shall remove those solid wastes
if so requested.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of

health and the environmental protection agency in administering
and enforcing this chapter and rules adopted under it, there is
hereby levied on the disposal of construction and demolition
debris at a construction and demolition debris facility that is
licensed under this chapter or at a solid waste facility that is
licensed under Chapter 3734. of the Revised Code a fee of thirty
cents per cubic yard or sixty cents per ton, as applicable.

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

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

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(4) The owner or operator of a construction and demolition
debris facility or a solid waste facility shall collect the fee
levied under division (A) of this section as a trustee for the
health district having jurisdiction over the facility, if that

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district is on the approved list under section 3714.09 of the
Revised Code, or for the state. The owner or operator shall
prepare and file with the appropriate board of health or the
director of environmental protection monthly returns indicating
the total volume or weight, as applicable, of construction and
demolition debris received for disposal at the facility and the
total amount of money required to be collected on the construction
and demolition debris disposed of during that month. Not later
than thirty days after the last day of the month to which the
return applies, the owner or operator shall mail to the board of
health or the director the return for that month together with the
money required to be collected on the construction and demolition
debris disposed of during that month. The owner or operator may
request, in writing, an extension of not more than thirty days
after the last day of the month to which the return applies. A
request for extension may be denied. If the owner or operator
submits the money late, the owner or operator shall pay a penalty
of ten per cent of the amount of the money due for each month that
it is late.

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

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The director shall transmit all money received from the
boards of health of health districts under this section and all
money from the disposal fee collected by the director under this
section to the treasurer of state to be credited to the

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construction and demolition debris facility oversight fund, which 177
is hereby created in the state treasury. The fund shall be 178
administered by the director, and money credited to the fund shall 179
be used exclusively for the administration and enforcement of this 180
chapter and rules adopted under it. 181

(B) The board of health of a health district or the director 182
may enter into an agreement with the owner or operator of a 183
construction and demolition debris facility or a solid waste 184
facility for the quarterly payment of the money collected from the 185
disposal fee. The board of health shall notify the director of any 186
such agreement. Not later than forty-five days after receipt of 187
the quarterly payment, the board of health shall transmit the 188
amount established in division (A)(5) of this section to the 189
director. The money retained by the board of health shall be 190
deposited in the special fund of the district as required under 191
that division. Upon receipt of the money from a board of health, 192
the director shall transmit the money to the treasurer of state to 193
be credited to the construction and demolition debris facility 194
oversight fund. 195

(C) If a construction and demolition debris facility or a 196
solid waste facility is located within the territorial boundaries 197
of a municipal corporation or the unincorporated area of a 198
township, the municipal corporation or township may appropriate up 199
to four cents per cubic yard or up to eight cents per ton of the 200
disposal fee required to be paid by the facility under division 201
(A) of this section for the same purposes that a municipal 202
corporation or township may levy a fee under division (C) of 203
section 3734.57 of the Revised Code. 204

The legislative authority of the municipal corporation or 205
township may appropriate the money from the fee by enacting an 206
ordinance or adopting a resolution establishing the amount of the 207
fee to be appropriated. Upon doing so, the legislative authority 208

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
same purposes that a solid waste management district may levy a
fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money 241
from the fee by adopting a resolution establishing the amount of 242
the fee to be appropriated. Upon doing so, the board of county 243
commissioners shall mail a certified copy of the resolution to the 244
board of health of the health district in which the construction 245
and demolition debris facility or the solid waste facility is 246
located or, if the facility is located in a health district that 247
is not on the approved list under section 3714.09 of the Revised 248
Code, to the director. Upon receipt of the copy of the resolution 249
and not later than forty-five days after receipt of money 250
collected from the fee, the board of health or the director, as 251
applicable, shall transmit to the treasurer of the county that 252
portion of the money collected from the disposal fee by the owner 253
or operator of the facility that is required by the resolution to 254
be paid to that county. 255

Money received by a county treasurer under this division 256
shall be paid into the general fund of the county. The county 257
treasurer shall maintain separate records of the money received 258
under this division. 259

A board of county commissioners may cease collecting money 260
under this division by repealing the resolution that was adopted 261
under this division. 262

(E)(1) This section does not apply to the disposal of 263
construction and demolition debris at a solid waste facility that 264
is licensed under Chapter 3734. of the Revised Code if there is no 265
construction and demolition debris facility licensed under this 266
chapter within forty miles of the solid waste facility as 267
determined by a facility's property boundaries. 268

(2) This section does not apply to the disposal of 269
construction and demolition debris at a solid waste facility that 270
is licensed under Chapter 3734. of the Revised Code if the owner 271

or operator of the facility collects fees under that chapter on 272
the disposal of the construction and demolition debris. 273

Sec. 3714.09. (A) The director of environmental protection 274
shall place each health district that is on the approved list 275
under division (A) or (B) of section 3734.08 of the Revised Code 276
on the approved list for the purposes of issuing licenses under 277
section 3714.06 of the Revised Code. Any survey or resurvey of any 278
such health district conducted under section 3734.08 of the 279
Revised Code shall also determine whether there is substantial 280
compliance with this chapter. If the director removes any such 281
health district from the approved list under division (B) of that 282
section, ~~he~~ the director shall also remove the health district 283
from the approved list under this division and shall administer 284
and enforce this chapter in the health district until the health 285
district is placed on the approved list under division (B) of 286
section 3734.08 of the Revised Code or division (B)(1) of this 287
section. 288

(B)(1) Upon the request of the board of health of a health 289
district that is not on the approved list under division (A) or 290
(B) of section 3734.08 of the Revised Code, the director may place 291
the board on the approved list for the purpose of licensing 292
construction and demolition debris facilities under section 293
3714.06 of the Revised Code if ~~he~~ the director determines that the 294
board is both capable of and willing to enforce all of the 295
applicable requirements of this chapter and rules adopted under 296
it. 297

(2) The director shall annually survey each health district 298
on the approved list under division (B)(1) of this section to 299
determine whether there is substantial compliance with this 300
chapter and rules adopted under it. Upon determining that there is 301
substantial compliance, the director shall place the health 302

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

(3) If, after a survey or resurvey is made under division 309
(B)(2) of this section, the director determines that a health 310
district is not eligible to be placed on the approved list or to 311
continue on that list, ~~he~~ the director shall certify that fact to 312
the board of health of the health district and shall administer 313
and enforce this chapter and rules adopted under it in the health 314
district until such time as the health district is placed on the 315
approved list. 316

(4) Whenever the director is required to administer and 317
enforce this chapter in any health district under division (A) or 318
(B)(3) of this section, ~~he~~ the director is hereby vested with all 319
of the authority and all the duties granted to or imposed upon a 320
board of health under this chapter and rules adopted under it 321
within the health district. All ~~construction and demolition debris~~ 322
~~facility license disposal~~ fees required to be paid to a board of 323
health by section 3714.07 of the Revised Code and all such 324
previous fees paid to the board, together with any money from 325
construction and demolition debris facility license fees that were 326
required to be paid to the board under section 3714.07 of the 327
Revised Code as that section existed prior to the effective date 328
of this amendment, that have not been expended or encumbered shall 329
be paid to the director and ~~by him~~ deposited by the director to 330
the credit of the construction and demolition debris facility 331
oversight fund created in section 3714.07 of the Revised Code. 332

(C) Nothing in this chapter limits the authority of the 333
director to initiate and pursue any administrative remedy or to 334

request the attorney general, the prosecuting attorney of the 335
appropriate county, or the city director of law of the appropriate 336
city to initiate and pursue any appropriate judicial remedy 337
available under this chapter to enforce any provision of this 338
chapter and any rules or terms or conditions of any license or 339
order adopted or issued under this chapter with respect to any 340
construction and demolition debris facility regardless of whether 341
the facility is located in a health district that is on the 342
approved list under division (A) or (B)(1) or (2) of this section. 343

Section 2. That existing sections 3714.01 and 3714.09 and 344
section 3714.07 of the Revised Code are hereby repealed. 345

Section 3. The Construction and Demolition Debris Facility 346
Oversight Fund that is created in section 3714.07 of the Revised 347
Code, as enacted by this act, is a continuation of the 348
Construction and Demolition Debris Facility Oversight Fund that 349
was created in section 3714.07 of the Revised Code, as repealed by 350
this act. Money credited to the Fund under former section 3714.07 351
of the Revised Code shall be used for the purposes specified in 352
section 3714.07 of the Revised Code, as enacted by this act. 353