

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 290**

**Senator Jones**

**Cosponsor: Senator LaRose**

**—**

**A B I L L**

To amend sections 3734.01 and 3734.57 of the Revised 1  
Code to exempt source separated recyclable 2  
materials from the definition of "solid wastes" 3  
and to prohibit a solid waste management district 4  
from spending district money to purchase or 5  
operate assets for recycling purposes when two or 6  
more privately owned companies offer to provide or 7  
are providing recycling services for recyclable 8  
materials that are generated in the district. 9

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

**Section 1.** That sections 3734.01 and 3734.57 of the Revised 10  
Code be amended to read as follows: 11

**Sec. 3734.01.** As used in this chapter: 12

(A) "Board of health" means the board of health of a city or 13  
general health district or the authority having the duties of a 14  
board of health in any city as authorized by section 3709.05 of 15  
the Revised Code. 16

(B) "Director" means the director of environmental 17  
protection. 18

(C) "Health district" means a city or general health district  
as created by or under authority of Chapter 3709. of the Revised  
Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or  
semisolid material as results from industrial, commercial,  
agricultural, and community operations, excluding earth or  
material from construction, mining, or demolition operations, or  
other waste materials of the type that normally would be included  
in demolition debris, nontoxic fly ash and bottom ash, including  
at least ash that results from the combustion of coal and ash that  
results from the combustion of coal in combination with scrap  
tires where scrap tires comprise not more than fifty per cent of  
heat input in any month, spent nontoxic foundry sand, and slag and  
other substances that are not harmful or inimical to public  
health, and includes, but is not limited to, garbage, scrap tires,  
combustible and noncombustible material, street dirt, and debris.  
"Solid wastes" does not include any material that is an infectious  
waste or a hazardous waste. "Solid wastes" also does not include  
any material such as paper, cardboard, metal, glass, plastic, or  
similar material that is segregated prior to its commingling with  
other solid wastes by the producer or generator of the material in  
order to reuse or recycle the material.

(F) "Disposal" means the discharge, deposit, injection,  
dumping, spilling, leaking, emitting, or placing of any solid  
wastes or hazardous waste into or on any land or ground or surface  
water or into the air, except if the disposition or placement  
constitutes storage or treatment or, if the solid wastes consist  
of scrap tires, the disposition or placement constitutes a  
beneficial use or occurs at a scrap tire recovery facility  
licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision

and other state or local body, the United States and any agency or 51  
instrumentality thereof, and any legal entity defined as a person 52  
under section 1.59 of the Revised Code. 53

(H) "Open burning" means the burning of solid wastes in an 54  
open area or burning of solid wastes in a type of chamber or 55  
vessel that is not approved or authorized in rules adopted by the 56  
director under section 3734.02 of the Revised Code or, if the 57  
solid wastes consist of scrap tires, in rules adopted under 58  
division (V) of this section or section 3734.73 of the Revised 59  
Code, or the burning of treated or untreated infectious wastes in 60  
an open area or in a type of chamber or vessel that is not 61  
approved in rules adopted by the director under section 3734.021 62  
of the Revised Code. 63

(I) "Open dumping" means the depositing of solid wastes into 64  
a body or stream of water or onto the surface of the ground at a 65  
site that is not licensed as a solid waste facility under section 66  
3734.05 of the Revised Code or, if the solid wastes consist of 67  
scrap tires, as a scrap tire collection, storage, monocell, 68  
monofill, or recovery facility under section 3734.81 of the 69  
Revised Code; the depositing of solid wastes that consist of scrap 70  
tires onto the surface of the ground at a site or in a manner not 71  
specifically identified in divisions (C)(2) to (5), (7), or (10) 72  
of section 3734.85 of the Revised Code; the depositing of 73  
untreated infectious wastes into a body or stream of water or onto 74  
the surface of the ground; or the depositing of treated infectious 75  
wastes into a body or stream of water or onto the surface of the 76  
ground at a site that is not licensed as a solid waste facility 77  
under section 3734.05 of the Revised Code. 78

(J) "Hazardous waste" means any waste or combination of 79  
wastes in solid, liquid, semisolid, or contained gaseous form that 80  
in the determination of the director, because of its quantity, 81  
concentration, or physical or chemical characteristics, may do 82

either of the following: 83

(1) Cause or significantly contribute to an increase in 84  
mortality or an increase in serious irreversible or incapacitating 85  
reversible illness; 86

(2) Pose a substantial present or potential hazard to human 87  
health or safety or to the environment when improperly stored, 88  
treated, transported, disposed of, or otherwise managed. 89

"Hazardous waste" includes any substance identified by 90  
regulation as hazardous waste under the "Resource Conservation and 91  
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 92  
amended, and does not include any substance that is subject to the 93  
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 94  
amended. 95

(K) "Treat" or "treatment," when used in connection with 96  
hazardous waste, means any method, technique, or process designed 97  
to change the physical, chemical, or biological characteristics or 98  
composition of any hazardous waste; to neutralize the waste; to 99  
recover energy or material resources from the waste; to render the 100  
waste nonhazardous or less hazardous, safer to transport, store, 101  
or dispose of, or amenable for recovery, storage, further 102  
treatment, or disposal; or to reduce the volume of the waste. When 103  
used in connection with infectious wastes, "treat" or "treatment" 104  
means any method, technique, or process designed to render the 105  
wastes noninfectious, including, without limitation, steam 106  
sterilization and incineration, or, in the instance of wastes 107  
identified in division (R)(7) of this section, to substantially 108  
reduce or eliminate the potential for the wastes to cause 109  
lacerations or puncture wounds. 110

(L) "Manifest" means the form used for identifying the 111  
quantity, composition, origin, routing, and destination of 112  
hazardous waste during its transportation from the point of 113

generation to the point of disposal, treatment, or storage. 114

(M) "Storage," when used in connection with hazardous waste, 115  
means the holding of hazardous waste for a temporary period in 116  
such a manner that it remains retrievable and substantially 117  
unchanged physically and chemically and, at the end of the period, 118  
is treated; disposed of; stored elsewhere; or reused, recycled, or 119  
reclaimed in a beneficial manner. When used in connection with 120  
solid wastes that consist of scrap tires, "storage" means the 121  
holding of scrap tires for a temporary period in such a manner 122  
that they remain retrievable and, at the end of that period, are 123  
beneficially used; stored elsewhere; placed in a scrap tire 124  
monocell or monofill facility licensed under section 3734.81 of 125  
the Revised Code; processed at a scrap tire recovery facility 126  
licensed under that section or a solid waste incineration or 127  
energy recovery facility subject to regulation under this chapter; 128  
or transported to a scrap tire monocell, monofill, or recovery 129  
facility, any other solid waste facility authorized to dispose of 130  
scrap tires, or a facility that will beneficially use the scrap 131  
tires, that is located in another state and is operating in 132  
compliance with the laws of the state in which the facility is 133  
located. 134

(N) "Facility" means any site, location, tract of land, 135  
installation, or building used for incineration, composting, 136  
sanitary landfilling, or other methods of disposal of solid wastes 137  
or, if the solid wastes consist of scrap tires, for the 138  
collection, storage, or processing of the solid wastes; for the 139  
transfer of solid wastes; for the treatment of infectious wastes; 140  
or for the storage, treatment, or disposal of hazardous waste. 141

(O) "Closure" means the time at which a hazardous waste 142  
facility will no longer accept hazardous waste for treatment, 143  
storage, or disposal, the time at which a solid waste facility 144  
will no longer accept solid wastes for transfer or disposal or, if 145

the solid wastes consist of scrap tires, for storage or 146  
processing, or the effective date of an order revoking the permit 147  
for a hazardous waste facility or the registration certificate, 148  
permit, or license for a solid waste facility, as applicable. 149  
"Closure" includes measures performed to protect public health or 150  
safety, to prevent air or water pollution, or to make the facility 151  
suitable for other uses, if any, including, but not limited to, 152  
the removal of processing residues resulting from solid wastes 153  
that consist of scrap tires; the establishment and maintenance of 154  
a suitable cover of soil and vegetation over cells in which 155  
hazardous waste or solid wastes are buried; minimization of 156  
erosion, the infiltration of surface water into such cells, the 157  
production of leachate, and the accumulation and runoff of 158  
contaminated surface water; the final construction of facilities 159  
for the collection and treatment of leachate and contaminated 160  
surface water runoff, except as otherwise provided in this 161  
division; the final construction of air and water quality 162  
monitoring facilities, except as otherwise provided in this 163  
division; the final construction of methane gas extraction and 164  
treatment systems; or the removal and proper disposal of hazardous 165  
waste or solid wastes from a facility when necessary to protect 166  
public health or safety or to abate or prevent air or water 167  
pollution. With regard to a solid waste facility that is a scrap 168  
tire facility, "closure" includes the final construction of 169  
facilities for the collection and treatment of leachate and 170  
contaminated surface water runoff and the final construction of 171  
air and water quality monitoring facilities only if those actions 172  
are determined to be necessary. 173

(P) "Premises" means either of the following: 174

(1) Geographically contiguous property owned by a generator; 175

(2) Noncontiguous property that is owned by a generator and 176  
connected by a right-of-way that the generator controls and to 177

which the public does not have access. Two or more pieces of 178  
property that are geographically contiguous and divided by public 179  
or private right-of-way or rights-of-way are a single premises. 180

(Q) "Post-closure" means that period of time following 181  
closure during which a hazardous waste facility is required to be 182  
monitored and maintained under this chapter and rules adopted 183  
under it, including, without limitation, operation and maintenance 184  
of methane gas extraction and treatment systems, or the period of 185  
time after closure during which a scrap tire monocell or monofill 186  
facility licensed under section 3734.81 of the Revised Code is 187  
required to be monitored and maintained under this chapter and 188  
rules adopted under it. 189

(R) "Infectious wastes" includes all of the following 190  
substances or categories of substances: 191

(1) Cultures and stocks of infectious agents and associated 192  
biologicals, including, without limitation, specimen cultures, 193  
cultures and stocks of infectious agents, wastes from production 194  
of biologicals, and discarded live and attenuated vaccines; 195

(2) Laboratory wastes that were, or are likely to have been, 196  
in contact with infectious agents that may present a substantial 197  
threat to public health if improperly managed; 198

(3) Pathological wastes, including, without limitation, human 199  
and animal tissues, organs, and body parts, and body fluids and 200  
excreta that are contaminated with or are likely to be 201  
contaminated with infectious agents, removed or obtained during 202  
surgery or autopsy or for diagnostic evaluation, provided that, 203  
with regard to pathological wastes from animals, the animals have 204  
or are likely to have been exposed to a zoonotic or infectious 205  
agent; 206

(4) Waste materials from the rooms of humans, or the 207  
enclosures of animals, that have been isolated because of 208

diagnosed communicable disease that are likely to transmit 209  
infectious agents. Such waste materials from the rooms of humans 210  
do not include any wastes of patients who have been placed on 211  
blood and body fluid precautions under the universal precaution 212  
system established by the centers for disease control in the 213  
public health service of the United States department of health 214  
and human services, except to the extent specific wastes generated 215  
under the universal precautions system have been identified as 216  
infectious wastes by rules adopted under division (R)(8) of this 217  
section. 218

(5) Human and animal blood specimens and blood products that 219  
are being disposed of, provided that, with regard to blood 220  
specimens and blood products from animals, the animals were or are 221  
likely to have been exposed to a zoonotic or infectious agent. 222  
"Blood products" does not include patient care waste such as 223  
bandages or disposable gowns that are lightly soiled with blood or 224  
other body fluids unless those wastes are soiled to the extent 225  
that the generator of the wastes determines that they should be 226  
managed as infectious wastes. 227

(6) Contaminated carcasses, body parts, and bedding of 228  
animals that were intentionally exposed to infectious agents from 229  
zoonotic or human diseases during research, production of 230  
biologicals, or testing of pharmaceuticals, and carcasses and 231  
bedding of animals otherwise infected by zoonotic or infectious 232  
agents that may present a substantial threat to public health if 233  
improperly managed; 234

(7) Sharp wastes used in the treatment, diagnosis, or 235  
inoculation of human beings or animals or that have, or are likely 236  
to have, come in contact with infectious agents in medical, 237  
research, or industrial laboratories, including, without 238  
limitation, hypodermic needles and syringes, scalpel blades, and 239  
glass articles that have been broken; 240



(8) Any other waste materials generated in the diagnosis, 241  
treatment, or immunization of human beings or animals, in research 242  
pertaining thereto, or in the production or testing of 243  
biologicals, that the public health council created in section 244  
3701.33 of the Revised Code, by rules adopted in accordance with 245  
Chapter 119. of the Revised Code, identifies as infectious wastes 246  
after determining that the wastes present a substantial threat to 247  
human health when improperly managed because they are contaminated 248  
with, or are likely to be contaminated with, infectious agents. 249

(S) "Infectious agent" means a type of microorganism, 250  
helminth, or virus that causes, or significantly contributes to 251  
the cause of, increased morbidity or mortality of human beings. 252

(T) "Zoonotic agent" means a type of microorganism, helminth, 253  
or virus that causes disease in vertebrate animals and that is 254  
transmissible to human beings and causes or significantly 255  
contributes to the cause of increased morbidity or mortality of 256  
human beings. 257

(U) "Solid waste transfer facility" means any site, location, 258  
tract of land, installation, or building that is used or intended 259  
to be used primarily for the purpose of transferring solid wastes 260  
that were generated off the premises of the facility from vehicles 261  
or containers into other vehicles for transportation to a solid 262  
waste disposal facility. "Solid waste transfer facility" does not 263  
include any facility that consists solely of portable containers 264  
that have an aggregate volume of fifty cubic yards or less nor any 265  
facility where legitimate recycling activities are conducted. 266

(V) "Beneficially use" means to use a scrap tire in a manner 267  
that results in a commodity for sale or exchange or in any other 268  
manner authorized as a beneficial use in rules adopted by the 269  
director in accordance with Chapter 119. of the Revised Code. 270

(W) "Commercial car," "commercial tractor," "farm machinery," 271

"motor bus," "vehicles," "motor vehicle," and "semitrailer" have	272
the same meanings as in section 4501.01 of the Revised Code.	273
(X) "Construction equipment" means road rollers, traction	274
engines, power shovels, power cranes, and other equipment used in	275
construction work, or in mining or producing or processing	276
aggregates, and not designed for or used in general highway	277
transportation.	278
(Y) "Motor vehicle salvage dealer" has the same meaning as in	279
section 4738.01 of the Revised Code.	280
(Z) "Scrap tire" means an unwanted or discarded tire.	281
(AA) "Scrap tire collection facility" means any facility that	282
meets all of the following qualifications:	283
(1) The facility is used for the receipt and storage of whole	284
scrap tires from the public prior to their transportation to a	285
scrap tire storage, monocell, monofill, or recovery facility	286
licensed under section 3734.81 of the Revised Code; a solid waste	287
incineration or energy recovery facility subject to regulation	288
under this chapter; a premises within the state where the scrap	289
tires will be beneficially used; or a scrap tire storage,	290
monocell, monofill, or recovery facility, any other solid waste	291
disposal facility authorized to dispose of scrap tires, or a	292
facility that will beneficially use the scrap tires, that is	293
located in another state, and that is operating in compliance with	294
the laws of the state in which the facility is located.	295
(2) The facility exclusively stores scrap tires in portable	296
containers.	297
(3) The aggregate storage of the portable containers in which	298
the scrap tires are stored does not exceed five thousand cubic	299
feet.	300
(BB) "Scrap tire monocell facility" means an individual site	301

within a solid waste landfill that is used exclusively for the 302  
environmentally sound storage or disposal of whole scrap tires or 303  
scrap tires that have been shredded, chipped, or otherwise 304  
mechanically processed. 305

(CC) "Scrap tire monofill facility" means an engineered 306  
facility used or intended to be used exclusively for the storage 307  
or disposal of scrap tires, including at least facilities for the 308  
submergence of whole scrap tires in a body of water. 309

(DD) "Scrap tire recovery facility" means any facility, or 310  
portion thereof, for the processing of scrap tires for the purpose 311  
of extracting or producing usable products, materials, or energy 312  
from the scrap tires through a controlled combustion process, 313  
mechanical process, or chemical process. "Scrap tire recovery 314  
facility" includes any facility that uses the controlled 315  
combustion of scrap tires in a manufacturing process to produce 316  
process heat or steam or any facility that produces usable heat or 317  
electric power through the controlled combustion of scrap tires in 318  
combination with another fuel, but does not include any solid 319  
waste incineration or energy recovery facility that is designed, 320  
constructed, and used for the primary purpose of incinerating 321  
mixed municipal solid wastes and that burns scrap tires in 322  
conjunction with mixed municipal solid wastes, or any tire 323  
retreading business, tire manufacturing finishing center, or tire 324  
adjustment center having on the premises of the business a single, 325  
covered scrap tire storage area at which not more than four 326  
thousand scrap tires are stored. 327

(EE) "Scrap tire storage facility" means any facility where 328  
whole scrap tires are stored prior to their transportation to a 329  
scrap tire monocell, monofill, or recovery facility licensed under 330  
section 3734.81 of the Revised Code; a solid waste incineration or 331  
energy recovery facility subject to regulation under this chapter; 332  
a premises within the state where the scrap tires will be 333

beneficially used; or a scrap tire storage, monocell, monofill, or 334  
recovery facility, any other solid waste disposal facility 335  
authorized to dispose of scrap tires, or a facility that will 336  
beneficially use the scrap tires, that is located in another 337  
state, and that is operating in compliance with the laws of the 338  
state in which the facility is located. 339

(FF) "Used oil" means any oil that has been refined from 340  
crude oil, or any synthetic oil, that has been used and, as a 341  
result of that use, is contaminated by physical or chemical 342  
impurities. "Used oil" includes only those substances identified 343  
as used oil by the United States environmental protection agency 344  
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 345  
U.S.C.A. 6901a, as amended. 346

(GG) "Accumulated speculatively" has the same meaning as in 347  
rules adopted by the director under section 3734.12 of the Revised 348  
Code. 349

**Sec. 3734.57.** (A) The following fees are hereby levied on the 350  
transfer or disposal of solid wastes in this state: 351

(1) One dollar per ton through June 30, 2014, one-half of the 352  
proceeds of which shall be deposited in the state treasury to the 353  
credit of the hazardous waste facility management fund created in 354  
section 3734.18 of the Revised Code and one-half of the proceeds 355  
of which shall be deposited in the state treasury to the credit of 356  
the hazardous waste clean-up fund created in section 3734.28 of 357  
the Revised Code; 358

(2) An additional one dollar per ton through June 30, 2014, 359  
the proceeds of which shall be deposited in the state treasury to 360  
the credit of the solid waste fund, which is hereby created. The 361  
environmental protection agency shall use money in the solid waste 362  
fund to pay the costs of administering and enforcing the laws 363  
pertaining to solid wastes, infectious wastes, and construction 364

and demolition debris, including, without limitation, ground water 365  
evaluations related to solid wastes, infectious wastes, and 366  
construction and demolition debris, under this chapter and Chapter 367  
3714. of the Revised Code and any rules adopted under them, 368  
providing compliance assistance to small businesses, and paying a 369  
share of the administrative costs of the environmental protection 370  
agency pursuant to section 3745.014 of the Revised Code. 371

(3) An additional two dollars and fifty cents per ton through 372  
June 30, 2014, the proceeds of which shall be deposited in the 373  
state treasury to the credit of the environmental protection fund 374  
created in section 3745.015 of the Revised Code; 375

(4) An additional twenty-five cents per ton through June 30, 376  
2013, the proceeds of which shall be deposited in the state 377  
treasury to the credit of the soil and water conservation district 378  
assistance fund created in section 1515.14 of the Revised Code. 379

In the case of solid wastes that are taken to a solid waste 380  
transfer facility located in this state prior to being transported 381  
for disposal at a solid waste disposal facility located in this 382  
state or outside of this state, the fees levied under this 383  
division shall be collected by the owner or operator of the 384  
transfer facility as a trustee for the state. The amount of fees 385  
required to be collected under this division at such a transfer 386  
facility shall equal the total tonnage of solid wastes received at 387  
the facility multiplied by the fees levied under this division. In 388  
the case of solid wastes that are not taken to a solid waste 389  
transfer facility located in this state prior to being transported 390  
to a solid waste disposal facility, the fees shall be collected by 391  
the owner or operator of the solid waste disposal facility as a 392  
trustee for the state. The amount of fees required to be collected 393  
under this division at such a disposal facility shall equal the 394  
total tonnage of solid wastes received at the facility that was 395  
not previously taken to a solid waste transfer facility located in 396

this state multiplied by the fees levied under this division. Fees 397  
levied under this division do not apply to materials separated 398  
from a mixed waste stream for recycling by a generator or 399  
materials removed from the solid waste stream through recycling, 400  
as "recycling" is defined in rules adopted under section 3734.02 401  
of the Revised Code. 402

The owner or operator of a solid waste transfer facility or 403  
disposal facility, as applicable, shall prepare and file with the 404  
director of environmental protection each month a return 405  
indicating the total tonnage of solid wastes received at the 406  
facility during that month and the total amount of the fees 407  
required to be collected under this division during that month. In 408  
addition, the owner or operator of a solid waste disposal facility 409  
shall indicate on the return the total tonnage of solid wastes 410  
received from transfer facilities located in this state during 411  
that month for which the fees were required to be collected by the 412  
transfer facilities. The monthly returns shall be filed on a form 413  
prescribed by the director. Not later than thirty days after the 414  
last day of the month to which a return applies, the owner or 415  
operator shall mail to the director the return for that month 416  
together with the fees required to be collected under this 417  
division during that month as indicated on the return or may 418  
submit the return and fees electronically in a manner approved by 419  
the director. If the return is filed and the amount of the fees 420  
due is paid in a timely manner as required in this division, the 421  
owner or operator may retain a discount of three-fourths of one 422  
per cent of the total amount of the fees that are required to be 423  
paid as indicated on the return. 424

The owner or operator may request an extension of not more 425  
than thirty days for filing the return and remitting the fees, 426  
provided that the owner or operator has submitted such a request 427  
in writing to the director together with a detailed description of 428

why the extension is requested, the director has received the 429  
request not later than the day on which the return is required to 430  
be filed, and the director has approved the request. If the fees 431  
are not remitted within thirty days after the last day of the 432  
month to which the return applies or are not remitted by the last 433  
day of an extension approved by the director, the owner or 434  
operator shall not retain the three-fourths of one per cent 435  
discount and shall pay an additional ten per cent of the amount of 436  
the fees for each month that they are late. For purposes of 437  
calculating the late fee, the first month in which fees are late 438  
begins on the first day after the deadline has passed for timely 439  
submitting the return and fees, and one additional month shall be 440  
counted every thirty days thereafter. 441

The owner or operator of a solid waste facility may request a 442  
refund or credit of fees levied under this division and remitted 443  
to the director that have not been paid to the owner or operator. 444  
Such a request shall be made only if the fees have not been 445  
collected by the owner or operator, have become a debt that has 446  
become worthless or uncollectable for a period of six months or 447  
more, and may be claimed as a deduction, including a deduction 448  
claimed if the owner or operator keeps accounts on an accrual 449  
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 450  
U.S.C. 166, as amended, and regulations adopted under it. Prior to 451  
making a request for a refund or credit, an owner or operator 452  
shall make reasonable efforts to collect the applicable fees. A 453  
request for a refund or credit shall not include any costs 454  
resulting from those efforts to collect unpaid fees. 455

A request for a refund or credit of fees shall be made in 456  
writing, on a form prescribed by the director, and shall be 457  
supported by evidence that may be required in rules adopted by the 458  
director under this chapter. After reviewing the request, and if 459  
the request and evidence submitted with the request indicate that 460

a refund or credit is warranted, the director shall grant a refund 461  
to the owner or operator or shall permit a credit to be taken by 462  
the owner or operator on a subsequent monthly return submitted by 463  
the owner or operator. The amount of a refund or credit shall not 464  
exceed an amount that is equal to ninety days' worth of fees owed 465  
to an owner or operator by a particular debtor of the owner or 466  
operator. A refund or credit shall not be granted by the director 467  
to an owner or operator more than once in any twelve-month period 468  
for fees owed to the owner or operator by a particular debtor. 469

If, after receiving a refund or credit from the director, an 470  
owner or operator receives payment of all or part of the fees, the 471  
owner or operator shall remit the fees with the next monthly 472  
return submitted to the director together with a written 473  
explanation of the reason for the submittal. 474

For purposes of computing the fees levied under this division 475  
or division (B) of this section, any solid waste transfer or 476  
disposal facility that does not use scales as a means of 477  
determining gate receipts shall use a conversion factor of three 478  
cubic yards per ton of solid waste or one cubic yard per ton for 479  
baled waste, as applicable. 480

The fees levied under this division and divisions (B) and (C) 481  
of this section are in addition to all other applicable fees and 482  
taxes and shall be paid by the customer or a political subdivision 483  
to the owner or operator of a solid waste transfer or disposal 484  
facility. In the alternative, the fees shall be paid by a customer 485  
or political subdivision to a transporter of waste who 486  
subsequently transfers the fees to the owner or operator of such a 487  
facility. The fees shall be paid notwithstanding the existence of 488  
any provision in a contract that the customer or a political 489  
subdivision may have with the owner or operator or with a 490  
transporter of waste to the facility that would not require or 491  
allow such payment regardless of whether the contract was entered 492



prior to or after ~~the effective date of this amendment~~ October 16, 493  
2009. For those purposes, "customer" means a person who contracts 494  
with, or utilizes the solid waste services of, the owner or 495  
operator of a solid waste transfer or disposal facility or a 496  
transporter of solid waste to such a facility. 497

(B) For the purposes specified in division (G) of this 498  
section, the solid waste management policy committee of a county 499  
or joint solid waste management district may levy fees upon the 500  
following activities: 501

(1) The disposal at a solid waste disposal facility located 502  
in the district of solid wastes generated within the district; 503

(2) The disposal at a solid waste disposal facility within 504  
the district of solid wastes generated outside the boundaries of 505  
the district, but inside this state; 506

(3) The disposal at a solid waste disposal facility within 507  
the district of solid wastes generated outside the boundaries of 508  
this state. 509

The solid waste management plan of the county or joint 510  
district approved under section 3734.521 or 3734.55 of the Revised 511  
Code and any amendments to it, or the resolution adopted under 512  
this division, as appropriate, shall establish the rates of the 513  
fees levied under divisions (B)(1), (2), and (3) of this section, 514  
if any, and shall specify whether the fees are levied on the basis 515  
of tons or cubic yards as the unit of measurement. A solid waste 516  
management district that levies fees under this division on the 517  
basis of cubic yards shall do so in accordance with division (A) 518  
of this section. 519

The fee levied under division (B)(1) of this section shall be 520  
not less than one dollar per ton nor more than two dollars per 521  
ton, the fee levied under division (B)(2) of this section shall be 522  
not less than two dollars per ton nor more than four dollars per 523

ton, and the fee levied under division (B)(3) of this section 524  
shall be not more than the fee levied under division (B)(1) of 525  
this section. 526

Prior to the approval of the solid waste management plan of a 527  
district under section 3734.55 of the Revised Code, the solid 528  
waste management policy committee of a district may levy fees 529  
under this division by adopting a resolution establishing the 530  
proposed amount of the fees. Upon adopting the resolution, the 531  
committee shall deliver a copy of the resolution to the board of 532  
county commissioners of each county forming the district and to 533  
the legislative authority of each municipal corporation and 534  
township under the jurisdiction of the district and shall prepare 535  
and publish the resolution and a notice of the time and location 536  
where a public hearing on the fees will be held. Upon adopting the 537  
resolution, the committee shall deliver written notice of the 538  
adoption of the resolution; of the amount of the proposed fees; 539  
and of the date, time, and location of the public hearing to the 540  
director and to the fifty industrial, commercial, or institutional 541  
generators of solid wastes within the district that generate the 542  
largest quantities of solid wastes, as determined by the 543  
committee, and to their local trade associations. The committee 544  
shall make good faith efforts to identify those generators within 545  
the district and their local trade associations, but the 546  
nonprovision of notice under this division to a particular 547  
generator or local trade association does not invalidate the 548  
proceedings under this division. The publication shall occur at 549  
least thirty days before the hearing. After the hearing, the 550  
committee may make such revisions to the proposed fees as it 551  
considers appropriate and thereafter, by resolution, shall adopt 552  
the revised fee schedule. Upon adopting the revised fee schedule, 553  
the committee shall deliver a copy of the resolution doing so to 554  
the board of county commissioners of each county forming the 555  
district and to the legislative authority of each municipal 556

corporation and township under the jurisdiction of the district. 557  
Within sixty days after the delivery of a copy of the resolution 558  
adopting the proposed revised fees by the policy committee, each 559  
such board and legislative authority, by ordinance or resolution, 560  
shall approve or disapprove the revised fees and deliver a copy of 561  
the ordinance or resolution to the committee. If any such board or 562  
legislative authority fails to adopt and deliver to the policy 563  
committee an ordinance or resolution approving or disapproving the 564  
revised fees within sixty days after the policy committee 565  
delivered its resolution adopting the proposed revised fees, it 566  
shall be conclusively presumed that the board or legislative 567  
authority has approved the proposed revised fees. The committee 568  
shall determine if the resolution has been ratified in the same 569  
manner in which it determines if a draft solid waste management 570  
plan has been ratified under division (B) of section 3734.55 of 571  
the Revised Code. 572

The committee may amend the schedule of fees levied pursuant 573  
to a resolution adopted and ratified under this division by 574  
adopting a resolution establishing the proposed amount of the 575  
amended fees. The committee may repeal the fees levied pursuant to 576  
such a resolution by adopting a resolution proposing to repeal 577  
them. Upon adopting such a resolution, the committee shall proceed 578  
to obtain ratification of the resolution in accordance with this 579  
division. 580

Not later than fourteen days after declaring the new fees to 581  
be ratified or the fees to be repealed under this division, the 582  
committee shall notify by certified mail the owner or operator of 583  
each solid waste disposal facility that is required to collect the 584  
fees of the ratification and the amount of the fees or of the 585  
repeal of the fees. Collection of any fees shall commence or 586  
collection of repealed fees shall cease on the first day of the 587  
second month following the month in which notification is sent to 588

the owner or operator. 589

Fees levied under this division also may be established, 590  
amended, or repealed by a solid waste management policy committee 591  
through the adoption of a new district solid waste management 592  
plan, the adoption of an amended plan, or the amendment of the 593  
plan or amended plan in accordance with sections 3734.55 and 594  
3734.56 of the Revised Code or the adoption or amendment of a 595  
district plan in connection with a change in district composition 596  
under section 3734.521 of the Revised Code. 597

Not later than fourteen days after the director issues an 598  
order approving a district's solid waste management plan, amended 599  
plan, or amendment to a plan or amended plan that establishes, 600  
amends, or repeals a schedule of fees levied by the district, the 601  
committee shall notify by certified mail the owner or operator of 602  
each solid waste disposal facility that is required to collect the 603  
fees of the approval of the plan or amended plan, or the amendment 604  
to the plan, as appropriate, and the amount of the fees, if any. 605  
In the case of an initial or amended plan approved under section 606  
3734.521 of the Revised Code in connection with a change in 607  
district composition, other than one involving the withdrawal of a 608  
county from a joint district, the committee, within fourteen days 609  
after the change takes effect pursuant to division (G) of that 610  
section, shall notify by certified mail the owner or operator of 611  
each solid waste disposal facility that is required to collect the 612  
fees that the change has taken effect and of the amount of the 613  
fees, if any. Collection of any fees shall commence or collection 614  
of repealed fees shall cease on the first day of the second month 615  
following the month in which notification is sent to the owner or 616  
operator. 617

If, in the case of a change in district composition involving 618  
the withdrawal of a county from a joint district, the director 619  
completes the actions required under division (G)(1) or (3) of 620

section 3734.521 of the Revised Code, as appropriate, forty-five 621  
days or more before the beginning of a calendar year, the policy 622  
committee of each of the districts resulting from the change that 623  
obtained the director's approval of an initial or amended plan in 624  
connection with the change, within fourteen days after the 625  
director's completion of the required actions, shall notify by 626  
certified mail the owner or operator of each solid waste disposal 627  
facility that is required to collect the district's fees that the 628  
change is to take effect on the first day of January immediately 629  
following the issuance of the notice and of the amount of the fees 630  
or amended fees levied under divisions (B)(1) to (3) of this 631  
section pursuant to the district's initial or amended plan as so 632  
approved or, if appropriate, the repeal of the district's fees by 633  
that initial or amended plan. Collection of any fees set forth in 634  
such a plan or amended plan shall commence on the first day of 635  
January immediately following the issuance of the notice. If such 636  
an initial or amended plan repeals a schedule of fees, collection 637  
of the fees shall cease on that first day of January. 638

If, in the case of a change in district composition involving 639  
the withdrawal of a county from a joint district, the director 640  
completes the actions required under division (G)(1) or (3) of 641  
section 3734.521 of the Revised Code, as appropriate, less than 642  
forty-five days before the beginning of a calendar year, the 643  
director, on behalf of each of the districts resulting from the 644  
change that obtained the director's approval of an initial or 645  
amended plan in connection with the change proceedings, shall 646  
notify by certified mail the owner or operator of each solid waste 647  
disposal facility that is required to collect the district's fees 648  
that the change is to take effect on the first day of January 649  
immediately following the mailing of the notice and of the amount 650  
of the fees or amended fees levied under divisions (B)(1) to (3) 651  
of this section pursuant to the district's initial or amended plan 652  
as so approved or, if appropriate, the repeal of the district's 653

fees by that initial or amended plan. Collection of any fees set 654  
forth in such a plan or amended plan shall commence on the first 655  
day of the second month following the month in which notification 656  
is sent to the owner or operator. If such an initial or amended 657  
plan repeals a schedule of fees, collection of the fees shall 658  
cease on the first day of the second month following the month in 659  
which notification is sent to the owner or operator. 660

If the schedule of fees that a solid waste management 661  
district is levying under divisions (B)(1) to (3) of this section 662  
is amended or repealed, the fees in effect immediately prior to 663  
the amendment or repeal shall continue to be collected until 664  
collection of the amended fees commences or collection of the 665  
repealed fees ceases, as applicable, as specified in this 666  
division. In the case of a change in district composition, money 667  
so received from the collection of the fees of the former 668  
districts shall be divided among the resulting districts in 669  
accordance with division (B) of section 343.012 of the Revised 670  
Code and the agreements entered into under division (B) of section 671  
343.01 of the Revised Code to establish the former and resulting 672  
districts and any amendments to those agreements. 673

For the purposes of the provisions of division (B) of this 674  
section establishing the times when newly established or amended 675  
fees levied by a district are required to commence and the 676  
collection of fees that have been amended or repealed is required 677  
to cease, "fees" or "schedule of fees" includes, in addition to 678  
fees levied under divisions (B)(1) to (3) of this section, those 679  
levied under section 3734.573 or 3734.574 of the Revised Code. 680

(C) For the purposes of defraying the added costs to a 681  
municipal corporation or township of maintaining roads and other 682  
public facilities and of providing emergency and other public 683  
services, and compensating a municipal corporation or township for 684  
reductions in real property tax revenues due to reductions in real 685

property valuations resulting from the location and operation of a 686  
solid waste disposal facility within the municipal corporation or 687  
township, a municipal corporation or township in which such a 688  
solid waste disposal facility is located may levy a fee of not 689  
more than twenty-five cents per ton on the disposal of solid 690  
wastes at a solid waste disposal facility located within the 691  
boundaries of the municipal corporation or township regardless of 692  
where the wastes were generated. 693

The legislative authority of a municipal corporation or 694  
township may levy fees under this division by enacting an 695  
ordinance or adopting a resolution establishing the amount of the 696  
fees. Upon so doing the legislative authority shall mail a 697  
certified copy of the ordinance or resolution to the board of 698  
county commissioners or directors of the county or joint solid 699  
waste management district in which the municipal corporation or 700  
township is located or, if a regional solid waste management 701  
authority has been formed under section 343.011 of the Revised 702  
Code, to the board of trustees of that regional authority, the 703  
owner or operator of each solid waste disposal facility in the 704  
municipal corporation or township that is required to collect the 705  
fee by the ordinance or resolution, and the director of 706  
environmental protection. Although the fees levied under this 707  
division are levied on the basis of tons as the unit of 708  
measurement, the legislative authority, in its ordinance or 709  
resolution levying the fees under this division, may direct that 710  
the fees be levied on the basis of cubic yards as the unit of 711  
measurement based upon a conversion factor of three cubic yards 712  
per ton generally or one cubic yard per ton for baled wastes. 713

Not later than five days after enacting an ordinance or 714  
adopting a resolution under this division, the legislative 715  
authority shall so notify by certified mail the owner or operator 716  
of each solid waste disposal facility that is required to collect 717

the fee. Collection of any fee levied on or after March 24, 1992, 718  
shall commence on the first day of the second month following the 719  
month in which notification is sent to the owner or operator. 720

(D)(1) The fees levied under divisions (A), (B), and (C) of 721  
this section do not apply to the disposal of solid wastes that: 722

(a) Are disposed of at a facility owned by the generator of 723  
the wastes when the solid waste facility exclusively disposes of 724  
solid wastes generated at one or more premises owned by the 725  
generator regardless of whether the facility is located on a 726  
premises where the wastes are generated; 727

(b) Are generated from the combustion of coal, or from the 728  
combustion of primarily coal in combination with scrap tires, 729  
regardless of whether the disposal facility is located on the 730  
premises where the wastes are generated. 731

(2) Except as provided in section 3734.571 of the Revised 732  
Code, any fees levied under division (B)(1) of this section apply 733  
to solid wastes originating outside the boundaries of a county or 734  
joint district that are covered by an agreement for the joint use 735  
of solid waste facilities entered into under section 343.02 of the 736  
Revised Code by the board of county commissioners or board of 737  
directors of the county or joint district where the wastes are 738  
generated and disposed of. 739

(3) When solid wastes, other than solid wastes that consist 740  
of scrap tires, are burned in a disposal facility that is an 741  
incinerator or energy recovery facility, the fees levied under 742  
divisions (A), (B), and (C) of this section shall be levied upon 743  
the disposal of the fly ash and bottom ash remaining after burning 744  
of the solid wastes and shall be collected by the owner or 745  
operator of the sanitary landfill where the ash is disposed of. 746

(4) When solid wastes are delivered to a solid waste transfer 747  
facility, the fees levied under divisions (B) and (C) of this 748



section shall be levied upon the disposal of solid wastes 749  
transported off the premises of the transfer facility for disposal 750  
and shall be collected by the owner or operator of the solid waste 751  
disposal facility where the wastes are disposed of. 752

(5) The fees levied under divisions (A), (B), and (C) of this 753  
section do not apply to sewage sludge that is generated by a waste 754  
water treatment facility holding a national pollutant discharge 755  
elimination system permit and that is disposed of through 756  
incineration, land application, or composting or at another 757  
resource recovery or disposal facility that is not a landfill. 758

(6) The fees levied under divisions (A), (B), and (C) of this 759  
section do not apply to solid wastes delivered to a solid waste 760  
composting facility for processing. When any unprocessed solid 761  
waste or compost product is transported off the premises of a 762  
composting facility and disposed of at a landfill, the fees levied 763  
under divisions (A), (B), and (C) of this section shall be 764  
collected by the owner or operator of the landfill where the 765  
unprocessed waste or compost product is disposed of. 766

(7) When solid wastes that consist of scrap tires are 767  
processed at a scrap tire recovery facility, the fees levied under 768  
divisions (A), (B), and (C) of this section shall be levied upon 769  
the disposal of the fly ash and bottom ash or other solid wastes 770  
remaining after the processing of the scrap tires and shall be 771  
collected by the owner or operator of the solid waste disposal 772  
facility where the ash or other solid wastes are disposed of. 773

(8) The director of environmental protection may issue an 774  
order exempting from the fees levied under this section solid 775  
wastes, including, but not limited to, scrap tires, that are 776  
generated, transferred, or disposed of as a result of a contract 777  
providing for the expenditure of public funds entered into by the 778  
administrator or regional administrator of the United States 779  
environmental protection agency, the director of environmental 780

protection, or the director of administrative services on behalf 781  
of the director of environmental protection for the purpose of 782  
remediating conditions at a hazardous waste facility, solid waste 783  
facility, or other location at which the administrator or regional 784  
administrator or the director of environmental protection has 785  
reason to believe that there is a substantial threat to public 786  
health or safety or the environment or that the conditions are 787  
causing or contributing to air or water pollution or soil 788  
contamination. An order issued by the director of environmental 789  
protection under division (D)(8) of this section shall include a 790  
determination that the amount of the fees not received by a solid 791  
waste management district as a result of the order will not 792  
adversely impact the implementation and financing of the 793  
district's approved solid waste management plan and any approved 794  
amendments to the plan. Such an order is a final action of the 795  
director of environmental protection. 796

(E) The fees levied under divisions (B) and (C) of this 797  
section shall be collected by the owner or operator of the solid 798  
waste disposal facility where the wastes are disposed of as a 799  
trustee for the county or joint district and municipal corporation 800  
or township where the wastes are disposed of. Moneys from the fees 801  
levied under division (B) of this section shall be forwarded to 802  
the board of county commissioners or board of directors of the 803  
district in accordance with rules adopted under division (H) of 804  
this section. Moneys from the fees levied under division (C) of 805  
this section shall be forwarded to the treasurer or such other 806  
officer of the municipal corporation as, by virtue of the charter, 807  
has the duties of the treasurer or to the fiscal officer of the 808  
township, as appropriate, in accordance with those rules. 809

(F) Moneys received by the treasurer or other officer of the 810  
municipal corporation under division (E) of this section shall be 811  
paid into the general fund of the municipal corporation. Moneys 812

received by the fiscal officer of the township under that division 813  
shall be paid into the general fund of the township. The treasurer 814  
or other officer of the municipal corporation or the township 815  
fiscal officer, as appropriate, shall maintain separate records of 816  
the moneys received from the fees levied under division (C) of 817  
this section. 818

(G) Moneys received by the board of county commissioners or 819  
board of directors under division (E) of this section or section 820  
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 821  
shall be paid to the county treasurer, or other official acting in 822  
a similar capacity under a county charter, in a county district or 823  
to the county treasurer or other official designated by the board 824  
of directors in a joint district and kept in a separate and 825  
distinct fund to the credit of the district. If a regional solid 826  
waste management authority has been formed under section 343.011 827  
of the Revised Code, moneys received by the board of trustees of 828  
that regional authority under division (E) of this section shall 829  
be kept by the board in a separate and distinct fund to the credit 830  
of the district. Moneys in the special fund of the county or joint 831  
district arising from the fees levied under division (B) of this 832  
section and the fee levied under division (A) of section 3734.573 833  
of the Revised Code shall be expended by the board of county 834  
commissioners or directors of the district in accordance with the 835  
district's solid waste management plan or amended plan approved 836  
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 837  
exclusively for the following purposes: 838

(1) Preparation of the solid waste management plan of the 839  
district under section 3734.54 of the Revised Code, monitoring 840  
implementation of the plan, and conducting the periodic review and 841  
amendment of the plan required by section 3734.56 of the Revised 842  
Code by the solid waste management policy committee; 843

(2) Implementation of the approved solid waste management 844

plan or amended plan of the district, including, ~~without~~ 845  
~~limitation~~, the development and implementation of solid waste 846  
recycling or reduction programs~~+~~. However, on and after the 847  
effective date of this amendment, the board of county 848  
commissioners or directors of a district shall not spend money in 849  
the district's special fund to acquire or operate assets for the 850  
collection or processing of recyclable material if two or more 851  
privately owned entities offer to provide or provide collection or 852  
processing of recyclable material that is generated in the 853  
district. 854

(3) Providing financial assistance to boards of health within 855  
the district, if solid waste facilities are located within the 856  
district, for enforcement of this chapter and rules, orders, and 857  
terms and conditions of permits, licenses, and variances adopted 858  
or issued under it, other than the hazardous waste provisions of 859  
this chapter and rules adopted and orders and terms and conditions 860  
of permits issued under those provisions; 861

(4) Providing financial assistance to each county within the 862  
district to defray the added costs of maintaining roads and other 863  
public facilities and of providing emergency and other public 864  
services resulting from the location and operation of a solid 865  
waste facility within the county under the district's approved 866  
solid waste management plan or amended plan; 867

(5) Pursuant to contracts entered into with boards of health 868  
within the district, if solid waste facilities contained in the 869  
district's approved plan or amended plan are located within the 870  
district, for paying the costs incurred by those boards of health 871  
for collecting and analyzing samples from public or private water 872  
wells on lands adjacent to those facilities; 873

(6) Developing and implementing a program for the inspection 874  
of solid wastes generated outside the boundaries of this state 875  
that are disposed of at solid waste facilities included in the 876

district's approved solid waste management plan or amended plan; 877

(7) Providing financial assistance to boards of health within 878  
the district for the enforcement of section 3734.03 of the Revised 879  
Code or to local law enforcement agencies having jurisdiction 880  
within the district for enforcing anti-littering laws and 881  
ordinances; 882

(8) Providing financial assistance to boards of health of 883  
health districts within the district that are on the approved list 884  
under section 3734.08 of the Revised Code to defray the costs to 885  
the health districts for the participation of their employees 886  
responsible for enforcement of the solid waste provisions of this 887  
chapter and rules adopted and orders and terms and conditions of 888  
permits, licenses, and variances issued under those provisions in 889  
the training and certification program as required by rules 890  
adopted under division (L) of section 3734.02 of the Revised Code; 891

(9) Providing financial assistance to individual municipal 892  
corporations and townships within the district to defray their 893  
added costs of maintaining roads and other public facilities and 894  
of providing emergency and other public services resulting from 895  
the location and operation within their boundaries of a 896  
composting, energy or resource recovery, incineration, or 897  
recycling facility that either is owned by the district or is 898  
furnishing solid waste management facility or recycling services 899  
to the district pursuant to a contract or agreement with the board 900  
of county commissioners or directors of the district; 901

(10) Payment of any expenses that are agreed to, awarded, or 902  
ordered to be paid under section 3734.35 of the Revised Code and 903  
of any administrative costs incurred pursuant to that section. In 904  
the case of a joint solid waste management district, if the board 905  
of county commissioners of one of the counties in the district is 906  
negotiating on behalf of affected communities, as defined in that 907  
section, in that county, the board shall obtain the approval of 908

the board of directors of the district in order to expend moneys 909  
for administrative costs incurred. 910

Prior to the approval of the district's solid waste 911  
management plan under section 3734.55 of the Revised Code, moneys 912  
in the special fund of the district arising from the fees shall be 913  
expended for those purposes in the manner prescribed by the solid 914  
waste management policy committee by resolution. 915

Notwithstanding division (G)(6) of this section as it existed 916  
prior to October 29, 1993, or any provision in a district's solid 917  
waste management plan prepared in accordance with division 918  
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 919  
prior to that date, any moneys arising from the fees levied under 920  
division (B)(3) of this section prior to January 1, 1994, may be 921  
expended for any of the purposes authorized in divisions (G)(1) to 922  
(10) of this section. 923

(H) The director shall adopt rules in accordance with Chapter 924  
119. of the Revised Code prescribing procedures for collecting and 925  
forwarding the fees levied under divisions (B) and (C) of this 926  
section to the boards of county commissioners or directors of 927  
county or joint solid waste management districts and to the 928  
treasurers or other officers of municipal corporations and the 929  
fiscal officers of townships. The rules also shall prescribe the 930  
dates for forwarding the fees to the boards and officials and may 931  
prescribe any other requirements the director considers necessary 932  
or appropriate to implement and administer divisions (A), (B), and 933  
(C) of this section. 934

**Section 2.** That existing sections 3734.01 and 3734.57 of the 935  
Revised Code are hereby repealed. 936