

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 958

Short Title: Solid Waste Advance Disposal Fee.

(Public)

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Sponsors: Senators Odom; Johnson of Wake, Marvin, Richardson, Speed, Tally, Walker, Ward, and Winner.

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Referred to: Environment and Natural Resources.

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April 19, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH AN ADVANCE DISPOSAL FEE ON CONTAINERS  
3 THAT ARE NOT BEING RECYCLED AT A RATE OF FIFTY PERCENT  
4 WITHIN THIS STATE.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 9 of Chapter 130A of the General Statutes is amended by  
7 adding a new Part to read:

8 **"PART 4.**

9 **"ADVANCE DISPOSAL FEE PROGRAM.**

10 **"§ 130A-310.15. Legislative findings; purpose.**

11 The General Assembly finds that containers which are made from plastic, glass,  
12 plastic-coated paper, aluminum, or other metals and which are improperly discarded  
13 represent a significant solid waste problem in this State. Finding a solution to litter  
14 problems involving containers has been challenging and difficult for the public and  
15 private sectors. The General Assembly has determined that a program operated with the  
16 established goals and implemented in phases is the most appropriate way to solve  
17 problems of litter involving containers. This section is intended to create the necessary  
18 infrastructure to help solve comprehensive solid waste management problems facing the  
19 State in the future. If the recycling facilities and programs initially created under this  
20 Part are not adequate, additional mechanisms are provided to be implemented in phases  
21 to help assure that litter problems involving containers are solved and that the reduction  
22 of the solid waste stream can be accomplished.

23 **"§ 130A-310.16. Definitions.**

1 As used in this Part:

- 2 (1) 'Container' means the individual, separate, and sealed glass, plastic,  
3 plastic-coated paper, aluminum, or other metal can, bottle, or jar in  
4 which the contents have been sealed by the manufacturer.
- 5 (2) 'Consumer' means any person who purchases a container for  
6 consumption of its contents with no intent to resell such container.
- 7 (3) 'Dealer' means any person in this State who engages in the sale of  
8 containers to a consumer. The term includes an operator of a vending  
9 machine containing containers. The term does not include a person  
10 who sells or offers for sale containers, the contents of which are  
11 consumed on the premises; nor a common carrier in the conduct of  
12 interstate passenger service who sells, offers for sale, or distributes to  
13 its passengers, containers, the contents of which are consumed on the  
14 premises.
- 15 (4) 'Distributor' means any person who engages in the sale of containers  
16 to a dealer in this State, including any manufacturer who engages in  
17 such sales.
- 18 (5) 'Manufacturer' means any person bottling, canning, or otherwise  
19 filling containers for sale to distributors or dealers.
- 20 (6) 'Nonrefillable container' means a container which is not intended to be  
21 reused as a container by a manufacturer after being initially used by a  
22 consumer.
- 23 (7) 'Refillable container' means a container which is intended to be reused  
24 as a container at least five times by a manufacturer after being initially  
25 used by a consumer.
- 26 (8) 'Redemption center' means a business other than a recycling center  
27 registered with the Department or a distributor, which offers to redeem  
28 any empty container for the amount of deposit.

29 **"§ 130A-310.17. Advance disposal fee.**

30 (a) If the Solid Waste Branch of the Department of Human Resources determines  
31 on October 1, 1991, by a preponderance of evidence, that containers which are made of  
32 glass, plastic, plastic-coated paper, aluminum, or other metals and which are sold in this  
33 State are not being recycled at a sustained rate of fifty percent (50%) of the quantities  
34 that these individual types of containers are sold within the State, the advance disposal  
35 fee program provided for in subsection (b) shall be implemented. The requirements of  
36 this section that apply to plastic containers shall apply individually to the following  
37 categories of plastic containers:

- 38 (1) Polyethylene terephthalate,  
39 (2) High density polyethylene,  
40 (3) Vinyl,  
41 (4) Low density polyethylene,  
42 (5) Polypropylene, and  
43 (6) Polystyrene.

1       **(b)** If the Solid Waste Branch makes the determination specified in subsection  
2 (a), there shall be an advance disposal fee of one cent (1¢) per container charged by  
3 retail establishments on those types of containers sold in the State. The proceeds of the  
4 advance disposal fee collected pursuant to this section, less the costs of administration,  
5 shall be reported and paid quarterly and shall be transferred into a fund to be known as  
6 the Disposal Fee Fund within the Department of Revenue.

7       For the purposes of this section, 'proceeds' of the fee shall mean all funds collected  
8 and received by the Department of Revenue pursuant to this subsection, including  
9 interest and penalties on delinquent fees. The amount deducted for the costs of  
10 administration shall not exceed three percent (3%) of the total revenues collected  
11 pursuant to this subsection, and shall be only those costs solely and directly attributable  
12 to the fee. The Department of Revenue shall determine the amount which needs to be  
13 reserved in the Disposal Fee Fund each quarter for refunds on the advance disposal fee  
14 and administrative costs. Any amount above that reserve shall be transferred quarterly  
15 to a fund to be known as the Container Recycling Trust Fund within the Department to  
16 be used for grants to units of local government for county recycling programs according  
17 to the provisions of subsection (d) of this section.

18       The Department of Revenue shall administer, collect, and enforce the fee authorized  
19 under this subsection pursuant to the same procedures used in the administration,  
20 collection, and enforcement of the general State sales tax imposed under Chapter 105 of  
21 the General Statutes, except as provided in this section. The provisions of this section  
22 regarding the authority to audit and make assessments, keeping of books and records,  
23 and interest and penalties on delinquent fees shall apply. The fees shall not be included  
24 in the computation of estimated taxes pursuant to Article 4C of Chapter 105 of the  
25 General Statutes.

26       The Department of Revenue is authorized to employ persons and incur other  
27 expenses to implement this Part. The Department is empowered to adopt such rules and  
28 shall prescribe and publish these forms as may be necessary to effectuate the purposes  
29 of this section. The Department is authorized to establish audit procedures and to assess  
30 delinquent fees.

31       **(c)** The Department of Human Resources shall adopt rules to accomplish the  
32 following:

- 33           **(1)** Establish reporting requirements necessary to obtain necessary sales  
34 and recycling information to implement this section and G.S. 130A-  
35 310.18;
- 36           **(2)** Establish the criteria to determine whether the fifty percent (50%)  
37 recycling rate has been achieved; and
- 38           **(3)** Establish the criteria for registration of public and private recycling  
39 centers.

40       **(d)** Containers for which an advance disposal fee has been charged may be  
41 returned to recycling centers which have registered with the Department, pursuant to  
42 Department rule, for a refund on the advance disposal fee in addition to payment for the  
43 market value of the product from which the container is made. Moneys in the Container

1 Recycling Trust Fund shall be allocated to support container recycling programs as  
2 follows:

- 3 (1) For capital assistance grants, fifty percent (50%);
- 4 (2) For litter control, fifteen percent (15%);
- 5 (3) For promotion and education, ten percent (10%);
- 6 (4) For technical assistance, eight percent (8%);
- 7 (5) For research and development, seven percent (7%); and
- 8 (6) For administration, ten percent (10%).

9 No more than monthly, or at times determined by rule of the Department of Revenue,  
10 operators of recycling centers registered with the Department may certify to the  
11 Department of Revenue, on forms provided by the Department of Revenue, the amount  
12 of refunds of the advance disposal fee which have been paid to purchasers and shall  
13 receive a refund from the Disposal Fee Fund. The Department of Revenue shall  
14 establish audit procedures for registered recycling center operators.

15 (e) This section shall expire October 1, 1995.

16 **"§ 130A-310.18. Increased advance disposal fee.**

17 (a) If the Solid Waste Branch of the Department of Human Resources determines  
18 by October 1, 1995, that containers made of glass, plastic, plastic-coated paper,  
19 aluminum, or other metals, and sold in the State are not being recycled at a rate of fifty  
20 percent (50%) of the quantities that these individual types of containers are sold within  
21 the State, the advance disposal fee program established in G.S. 130A-310.17(b) shall  
22 increase to two cents (2¢) per container and the provisions of this section shall be  
23 implemented. These fees shall not apply to those types of containers that are recycled at  
24 a rate of fifty percent (50%) or more.

25 (b) Every container sold or offered for sale in this State shall have a refund value,  
26 or deposit, established by the distributor of not less than five cents (5¢). Each container  
27 shall have the refund value, and the words 'North Carolina' clearly indicated by  
28 embossing, by a stamp, or by a label or other device securely fixed to any portion of the  
29 container other than the bottom. A recycling center, redemption center, or distributor  
30 may refuse to accept from a person any empty container which does not state such  
31 information on the container.

32 This subsection does not apply to containers sold by a distributor for use by a  
33 common carrier in the conduct of interstate passenger service. This subsection does  
34 apply to any refillable container having a brand name permanently marked thereon  
35 which, on the effective date of this section, has a refund value of not less than ten cents  
36 (10¢).

37 The requirements of this subsection relating to refund value shall not apply to those  
38 types of containers that meet the requirements of recycling in G.S. 130A-310.17(a).  
39 Each consumer shall deposit with the dealer the refund value of each container  
40 purchased from that dealer. However, no deposit shall be required if the container is  
41 sold for consumption of the beverage on the premises. The proceeds of the deposit  
42 collected pursuant to this subsection, less the costs of administration, shall be reported  
43 and paid quarterly and shall be transferred to a fund to be known as the Container  
44 Deposit Fund within the Department of Revenue. The amount deducted for the costs of

1 administration shall not exceed three percent (3%) of the total deposits collected  
2 pursuant to this subsection, and shall be only those costs solely and directly attributable  
3 to the deposit. The Department of Revenue shall determine the amount which needs to  
4 be reserved in the Container Deposit Fund each quarter for refunds on deposits and  
5 administration costs. Any amount above that reserve shall be transferred to the  
6 Container Recycling Trust Fund to be used according to the provisions of G.S. 130A-  
7 310.17(d).

8 The Department of Revenue shall administer and collect the deposits pursuant to the  
9 same procedures used in the administration and collection of the advance disposal fee.

10 (c) Except as provided in subsection (e) of this section, a recycling center  
11 registered with the Department shall accept from any consumer or other person not a  
12 dealer any empty, unbroken, and reasonably clean container of the type, size, and brand  
13 sold within North Carolina and shall pay in cash the refund value of the returned  
14 container.

15 (d) A dealer shall inform consumers that containers are returnable to a registered  
16 recycling center by placing a sign or shelf label, or both, in close proximity to any sales  
17 display of containers. The sign or label shall indicate the amount of deposit required for  
18 each container and indicate that the containers are returnable. If a dealer participates in  
19 a redemption center, the location of that redemption center shall be posted.

20 (e) A recycling center may limit the total number of containers that he will  
21 accept from any one consumer in any business day to 96 containers. The recycling  
22 center may refuse to accept containers for a period of not more than three hours during  
23 any business day, provided that the hours during which containers will not be accepted  
24 are conspicuously posted.

25 (f) Each operator of a vending machine which sells containers shall post a  
26 conspicuous notice on the vending machine indicating that a refund is available for each  
27 container purchased and indicating where and from whom that refund may be obtained.  
28 This subdivision does not require vending machine operators to provide refunds at the  
29 premises where the vending machines are located.

30 (g) Any person may establish a redemption center and may determine what type,  
31 size, and brand of container shall be accepted. The redemption center may contract with  
32 a distributor to collect and provide for the recycling of empty containers. The  
33 distributor shall accept any empty, unbroken, and reasonably clean container of the  
34 type, size, and brand sold by the distributor within the past 12 months and shall pay to  
35 the redemption center, within 10 working days, the refund value of the containers  
36 collected, plus a handling fee of not less than ten percent (10%) and not more than thirty  
37 percent (30%) of the refund values.

38 (h) No more than monthly, or at times determined by rule of the Department of  
39 Revenue, operators of recycling centers registered with the Department may certify to  
40 the Department of Revenue, on forms provided by the Department of Revenue, the  
41 amount of refunds on deposits which have been paid to purchasers and shall receive a  
42 refund from the Container Deposit Fund, plus a handling fee of not less than ten percent  
43 (10%) and not more than thirty percent (30%) of the refund values. The Department of  
44 Revenue shall establish audit procedures for registered recycling center operators.

1       (i) The Department shall adopt rules necessary to administer this section,  
2 including rules for the regulation of redemption centers. The rules shall provide that  
3 State information material, including travel pamphlets and road maps, printed after  
4 December 31, 1993, shall contain information related to this section. Such  
5 informational material shall contain a statement relating to the deposit law, urging  
6 travelers to avoid littering.

7       (j) The Department of Public Instruction shall incorporate information  
8 concerning this section into educational materials distributed to primary and secondary  
9 schools within the State urging an end to littering."

10           Sec. 2. The General Assembly shall review the Advance Disposal Fee  
11 Program annually.

12           Sec. 3. This act is effective upon ratification.