

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 773
SENATE BILL 535

AN ACT TO AMEND THE FEE SCHEDULE APPLICABLE TO GENERATORS AND TRANSPORTERS OF HAZARDOUS WASTE AND TO HAZARDOUS WASTE FACILITIES; TO REVISE THE NAME OF THE HAZARDOUS WASTE REGULATION STUDY; TO MAKE TECHNICAL AMENDMENTS TO THE MARINE FISHERIES ACT OF 1987; AND TO AMEND THE BUSINESS CORPORATION ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(7) is rewritten to read:

"(7) Establish and collect annual fees from generators and transporters of hazardous waste, and from storage, treatment, and disposal facilities regulated under this Article as provided in G.S. 130A-294.1."

Sec. 2. Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-294.1. Fees applicable to generators and transporters of hazardous waste, and to hazardous waste storage, treatment, and disposal facilities.—(a) A person who generates 1000 kilograms or more of hazardous waste in any calendar month during the year beginning July 1 and ending June 30 shall pay to the Department an annual fee of six hundred dollars (\$600.00) plus fifty cents (\$0.50) per ton of hazardous waste generated up to a maximum of 25,000 tons.

(b) [Reserved.]

(c) A generator who generates less than 1000 kilograms of hazardous waste in each calendar month during the year beginning July 1 and ending June 30 shall not be liable for payment of a fee under subsection (a) of this section for that year.

(d) Hazardous waste generated as a result of any type of remedial action shall not be subject to a tonnage fee under subsection (a) of this section.

(e) A generator of hazardous waste also permitted as a hazardous waste storage, treatment, or disposal facility that accepts hazardous waste from the general public or from another person for a fee shall pay, in addition to the fee applicable to generators, the annual fee or fees applicable to storage, treatment, and disposal facilities under subsection (g) of this section; provided that, a generator whose hazardous waste is stored, treated, or disposed of at a facility which is owned or operated by the generator shall be liable for the tonnage fee applicable to generators under subsection (a) of this section, and shall not be liable for the tonnage fees applicable to storage, treatment, or disposal facilities under subsection (g) of this section.

(f) A transporter shall pay a fee of six hundred dollars (\$600.00).

(g) A storage, treatment, or disposal facility that accepts hazardous waste from the general public or from another person for a fee shall pay a fee of one thousand two hundred dollars (\$1,200) for each permitted activity, plus a single tonnage charge of one dollar and seventy-five cents (\$1.75) per ton of hazardous waste stored, treated, and disposed of at the facility.

(h) An applicant for a permit for a hazardous waste storage, treatment, or disposal facility that proposes to accept hazardous waste from the general public or from another person for a fee shall pay an application fee for each proposed activity as follows:

(1)	Storage facility	\$10,000;
(2)	Treatment facility	\$15,000;
(3)	Disposal facility	\$25,000.

(i) All fees collected by the Department under this section shall be deposited in a separate nonreverting fund to be used, subject to appropriation by the General Assembly, to pay the State's share of the cost of the Department's hazardous waste management program.

(j) [Reserved.]

(k) The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the State's hazardous waste management program. The report shall include, but is not limited to, beginning fund balance, fees collected under this section, anticipated revenue from all other sources, interest earned by the fund, expenditures for the hazardous waste management program, ending fund balance, and any other information requested by the General Assembly."

Sec. 3. This act does not limit any authority which any city or county may otherwise have to impose local permit application fees.

Sec. 4. Effective July 1, 1988, G.S. 130A-294.1(a), as set out in Section 2 of this act, is amended by deleting the phrase "six hundred dollars (\$600.00)" and substituting the phrase "five hundred dollars (\$500.00)".

Sec. 5. Effective July 1, 1988, G.S. 130A-294.1(b), as set out in Section 2 of this act, is amended by deleting the phrase "[Reserved.]" and substituting the following:

"A generator who generates 100 kilograms or more of hazardous waste in any calendar month during the year beginning July 1 and ending June 30 but less than 1000 kilograms of hazardous waste in each calendar month during that year shall pay an annual fee of twenty-five dollars (\$25.00)."

Sec. 6. Effective July 1, 1988, G.S. 130A-294.1(c), as set out in Section 2 of this act, is rewritten to read:

"(c) A generator who generates less than 100 kilograms of hazardous waste in each calendar month during the year beginning July 1 and ending June 30 shall not be liable for payment of a fee under subsections (a) and (b) of this section for that year."

Sec. 7. Effective July 1, 1988, G.S. 130A-294.1(d), as set out in Section 2 of this act, is rewritten to read:

"(d) Hazardous waste generated as a result of any type of remedial action shall not be subject to a tonnage fee under subsections (a) and (b) of this section."

Sec. 8. Effective July 1, 1988, G.S. 130A-294.1(j), as set out in Section 2 of this act, is amended by deleting the phrase "[Reserved.]" and substituting the following sentence:

"The Secretary shall annually adjust the tonnage fees established by this section to assure the continued availability of funds sufficient to pay the State's share of the cost of the Department's hazardous waste management program."

Sec. 9. Section 150 of Chapter 1014 of the 1985 Session Laws (1986 Regular Session) is amended by rewriting the catch line to read "CONSOLIDATION OF ENVIRONMENTAL REGULATORY AGENCIES STUDY"; by deleting the phrase "A legislative committee" in the third sentence of the first paragraph and substituting the phrase "There is created the Consolidation of Environmental Regulatory Agencies Study Commission which"; and by substituting the word "Commission" for the word "committee" in each sentence in the second paragraph.

Sec. 10. Section 2 of Chapter 641 of the 1987 Session Laws is amended at G.S. 143B-289.4(2)(k) by inserting the word "or" between the words "navigational" and "recreational".

Sec. 11. Section 16 of Chapter 641 of the 1987 Session Laws is amended by deleting the citation "G.S. 113-202" and substituting "G.S. 113-202(b)".

Sec. 12. Article 7A of Chapter 55 of the General Statutes, as enacted by Chapter 182 of the 1987 Session Laws is amended by adding a new section to read:

"§ 55-99. **Exemptions.**—The provisions of this Article shall not be applicable to any corporation if, on or before the ninetieth (90th) calendar day after the effective date of this section, or such earlier date as may be irrevocably established by resolution of the board of directors, the board of directors adopts a bylaw stating that the provisions of this Article shall not be applicable to the corporation; or, in the case of a corporation formed after the effective date of this section, its initial articles of incorporation provide that this Article shall not be applicable to the corporation. Neither adoption nor failure to adopt such a bylaw or provision shall constitute grounds for any cause of action against the corporation, or any officer or director of the corporation."

Sec. 13. Sections 1, 3, 9, 10, 11, and 12 of this act are effective upon ratification. Section 2 of this act is effective July 1, 1987, except that the tonnage fees established by this act are effective upon ratification. Sections 4, 5, 6, 7, and 8 of this act shall become effective on July 1, 1988.

In the General Assembly read three times and ratified this the 12th day of August, 1987.