

1 H.193

2 Introduced by Representatives Dolan of Waitsfield, Ode of Burlington, and

3 Squirrell of Underhill

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; taxation; solid waste franchise tax;

7 hazardous waste assessment

8 Statement of purpose of bill as introduced: This bill proposes to increase
9 revenue for the Environmental Contingency Fund by increasing the solid waste
10 franchise tax and increasing the tax on hazardous waste. All additional
11 revenue from the increase in the taxes would be deposited into the
12 Environmental Contingency Fund.

13 An act relating to increasing revenue for the Environmental Contingency
14 Fund

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. FINDINGS

17 The General Assembly finds that:

18 (1) The Environmental Contingency Fund (ECF) was created in 1985 by
19 the Vermont General Assembly to pay for the control, investigation, and
20 remediation of the release of hazardous materials.

1 (2) The ECF is capitalized through a tax on the generation of hazardous
2 waste as established in 32 V.S.A. Chapter 237.

3 (3) There are significant funding shortfalls anticipated for the ECF due
4 to critical needs in the State to protect public health and the environment. The
5 needs include costs necessary to respond to the emerging fluorocarbon
6 contaminants that have been found throughout Bennington county at
7 significant levels in drinking water supplies and have been found in
8 groundwater at various locations throughout the State. In addition to the
9 fluorocarbon problem, the ECF also will be obligated for State contributions at
10 sites undergoing remediation through the U.S. Environmental Protection
11 Agency Superfund program. Additionally, there are a number of State lead
12 contaminated sites that also will require ECF funding, such as the dry cleaner
13 initiative around child care facilities and the Vermont Asbestos Group site.

14 (4) The existing funding source from the tax on the generation of
15 hazardous waste has not been updated since 1980.

16 (5) The existing solid waste tax has not been updated since 1987.

17 (6) The General Assembly requested an Agency of Natural Resources’
18 report, entitled, “Report on Hazardous Materials Response; Projected Capital
19 Needs, Obligations and Funding recommendations for the Environmental
20 Contingency Fund.”

1 (7) The report identified significant shortfalls in the funding of the ECF
2 that require the State to identify additional revenues to meet the demand on the
3 Fund.

4 (8) To meet the needs of the ECF and solid waste management in the
5 State, the General Assembly should adjust the tax on hazardous waste and the
6 tax on solid waste franchises.

7 Sec. 2. 32 V.S.A. § 5952 is amended to read:

8 § 5952. IMPOSITION OF TAX

9 (a)(1) A tax is imposed for each calendar quarter or part thereof upon the
10 franchise or privilege of doing business of every person required by 10 V.S.A.
11 chapter 159 to obtain certification for a facility. The tax shall be imposed in
12 the amount of ~~\$6.00~~ \$10.00 per ton of waste delivered for disposal or
13 incineration at the facility, regardless of the amount charged by the operator to
14 recoup its expenses of operation, including the expense of this tax.

15 (2) The tax shall be similarly imposed on waste delivered to a transfer
16 facility for shipment to an incinerator or other treatment facility or disposal
17 facility that is located outside the State. However, if the transfer station is
18 located within a district that is authorized by an interstate compact to enter into
19 cooperative agreements with a district in another state, the tax shall only be
20 imposed if the treatment or disposal facility is located outside the State and
21 also outside the cooperating district in another state. For purposes of this

1 determination, a treatment or disposal facility may be considered to be located
2 within a district only if that district existed before July 1, 1987.

3 (3) The tax shall be similarly imposed on waste shipped to an
4 incinerator or other treatment facility or disposal facility that is located outside
5 the State, without having been delivered to a transfer station located in this
6 State. In this situation, the tax is imposed for each calendar quarter or part
7 thereof upon the franchise or privilege of doing business of every person
8 regulated under 10 V.S.A. § 6607a as a commercial hauler of solid waste. This
9 tax shall not be imposed on waste exempt under subdivision (2) of this
10 subsection.

11 (b) The tax imposed by this section shall be in addition to any other taxes
12 imposed on the taxpayer.

13 (c) If a return required by this chapter is not filed or if a return, when filed,
14 is incorrect or insufficient, the Commissioner shall determine the amount of
15 tax due from any information available. If adequate information is not
16 available to determine the tax otherwise due under this section, the
17 Commissioner may assess a tax at the rate of ~~\$3.50~~ \$7.50 per year per person
18 served by the facility. The number of persons served by a facility shall be
19 determined by the Commissioner based upon any available information and
20 with regard given to seasonal and recreational use.

1 (d) Every person required to pay the tax imposed by this subchapter shall
2 use a weight scale that accurately gauges the weight of the waste and shall
3 keep accurate contemporaneous records of the volume or weight of all waste
4 delivered for disposal; provided, however, that a landfill receiving less than
5 1,000 tons of municipal solid waste per year that does not have scales that
6 accurately gauge the weight of the waste may compute weight indirectly from
7 volume using accurate records of the volume of waste delivered for disposal
8 and a conversion rate approved by the Commissioner. The taxpayer's records
9 relating to imposition of the tax imposed by this subchapter shall be available
10 for inspection or examination at any time upon demand by the Commissioner
11 of Taxes or the Secretary of Natural Resources, their duly authorized agents, or
12 employees and shall be preserved for a period of three years.

13 Sec. 3. 32 V.S.A. § 10103 is amended to read:

14 § 10103. TAX IMPOSED; EXEMPTIONS

15 (a) Any person initiating a shipment of hazardous waste in Vermont, who
16 is required to file a manifest, or other similar report, pursuant to the Resource
17 Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), as
18 amended from time to time, or under 10 V.S.A. chapter 159 and the rules
19 adopted under that chapter, shall pay a tax based on the quantity of hazardous
20 waste required to be reported on such manifest or other report, as follows:

1 (1) Hazardous waste destined to be recycled for a beneficial purpose as
2 defined by the Secretary, except as specified in subdivision (3) of this
3 subsection, shall be taxed at the rate of ~~44~~ 22 cents per gallon of liquid or ~~4.4~~
4 2.8 cents per pound of solid.

5 (2) Hazardous waste destined for any form of management other than
6 recycling, except as specified in subdivision (3) of this subsection, shall be
7 taxed at the rate of ~~23.6~~ 47.2 cents per gallon of liquid or ~~3.0~~ 6.0 cents per
8 pound of solid.

9 (3) Hazardous waste destined for any form of management shall be
10 taxed at the rate of ~~1.0-cent~~ 2.0 cents per pound, if all of the following apply:

11 (A) it is shipped from a storage or collection facility for which
12 financial responsibility is required and maintained under 10 V.S.A. § 6605 or
13 6606 or the rules adopted under those sections;

14 (B) it is not generated by the owner or operator of the storage or
15 collection facility;

16 (C) it has not been previously taxed in Vermont; and

17 (D) it has not been held ~~onsite~~ on-site for more than 180 days.

18 (b) The following hazardous wastes are exempt from the tax imposed by
19 subsections (a) and (e) of this section, provided that the exemption is noted on
20 a manifest or other report in the manner prescribed by the Secretary:

1 (1) hazardous waste that is generated as a result of any action taken
2 under 10 V.S.A. § 1283 for which disbursements from the Environmental
3 Contingency Fund have been or will be made by the Secretary;

4 (2) [Repealed.]

5 (3) hazardous waste that is destined for treatment in an ~~onsite~~ on-site
6 ~~waste water~~ wastewater treatment unit to produce a material that is not
7 hazardous before entering a public sewer system or waters of the State, but the
8 tax does apply to any residue of treatment that is a hazardous waste;

9 (4) for any calendar quarter, hazardous waste generated by a person who
10 generated an average of less than 220 pounds of hazardous waste per month
11 per site or 2.2 pounds of acutely hazardous waste per month per site during that
12 calendar quarter;

13 (5) hazardous waste generated by a facility ~~onsite~~ on-site that is recycled
14 ~~onsite~~ on-site;

15 (6) hazardous waste that has been previously taxed in Vermont,
16 provided:

17 (A) the person shipping the previously taxed waste has not held the
18 waste for more than 180 days; and

19 (B) if the waste has been mixed, the resulting mixture does not
20 change the applicable U.S. Department of Transportation shipping description
21 from that which applied before the waste was mixed; and

1 (7) hazardous waste shipped in implementing a corrective action plan
2 approved by the Secretary of Natural Resources under 10 V.S.A. § 6615a, the
3 redevelopment of contaminated properties program, provided that the
4 Secretary issues a certificate of completion, as provided under that section.

5 (c) The following persons are exempt from the tax imposed by subsections
6 (a) and (e) of this section, provided they meet the conditions of the exemption:

7 (1) A person who pays a tax on hazardous waste pursuant to this section
8 shall not be further taxed for such hazardous waste, provided that such
9 hazardous waste is stored or reshipped by the same person without change in
10 the applicable U.S. Department of Transportation shipping description. The
11 person shall note the previously taxed hazardous waste on a manifest in the
12 manner prescribed by the Secretary.

13 (2) Any person who initiates a manifest to import hazardous waste into
14 Vermont from a foreign country shall not be required to pay a tax under
15 subsection (a) of this section, provided that this exemption is noted on the
16 manifest in the manner prescribed by the Secretary.

17 (d) The tax imposed by this chapter shall be deposited in the Environmental
18 Contingency Fund established under 10 V.S.A. § 1283 and the Hazardous
19 Waste Management Assistance Account of the Waste Management Assistance
20 Fund established under 10 V.S.A. § 6618, as required by the Secretary of
21 Natural Resources under that section.

1 (e) Any facility required to obtain certification under 10 V.S.A. § 6606 and
2 the rules adopted under that section that recycles, treats, or disposes of
3 hazardous waste shall pay a tax based on the quantity of hazardous waste
4 recycled, treated, or disposed of at the facility in a calendar quarter. Each
5 facility shall report the quantity of hazardous waste recycled, treated, or
6 disposed of in a calendar quarter ~~no~~ not later than 30 days after the end of the
7 quarter. The following tax rates shall apply:

8 (1) hazardous waste that is recycled shall be taxed at the rate of ~~44~~ 22
9 cents per gallon of liquid or ~~4.4~~ 2.8 cents per pound of solid;

10 (2) hazardous waste that is treated shall be taxed at the rate of ~~45.7~~ 31.4
11 cents per gallon of liquid or ~~2.0~~ 4.0 cents per pound of solid; and

12 (3) hazardous waste that is land disposed or land treated shall be taxed at
13 the rate of ~~23.6~~ 47.2 cents per gallon of liquid or ~~3.0~~ 6.0 cents per pound of
14 solid.

15 Sec. 4. 10 V.S.A. § 6618 is amended to read:

16 § 6618. WASTE MANAGEMENT ASSISTANCE FUND

17 (a) There is hereby created in the State Treasury a fund to be known as the
18 Waste Management Assistance Fund to be expended by the Secretary of
19 Natural Resources. The Fund shall have three accounts: one for Solid Waste
20 Management Assistance, one for Hazardous Waste Management Assistance,
21 and one for Electronic Waste Collection and Recycling Assistance. The

1 Hazardous Waste Management Assistance Account shall consist of a
2 percentage of the tax on hazardous waste under the provisions of 32 V.S.A.
3 chapter 237, as established by the Secretary; the toxics use reduction fees
4 under subsection 6628(j) of this title; and appropriations of the General
5 Assembly. In no event shall the amount of the hazardous waste tax that is
6 deposited to the Hazardous Waste Management Assistance Account exceed 40
7 percent of the annual tax receipts. The Solid Waste Management Assistance
8 Account shall consist of \$6.00 per ton of each assessment of the franchise tax
9 on waste facilities ~~assessed~~ under the provisions of 32 V.S.A. chapter 151,
10 subchapter 13 and appropriations of the General Assembly. The Electronic
11 Waste Collection and Recycling Account shall consist of the program and
12 implementation fees required under section 7553 of this title. All balances in
13 the Fund accounts at the end of any fiscal year shall be carried forward and
14 remain a part of the Fund accounts, except as provided in subsection (e) of this
15 section. Interest earned by the Fund shall be deposited into the appropriate
16 Fund account. Disbursements from the Fund accounts shall be made by the
17 State Treasurer on warrants drawn by the Commissioner of Finance and
18 Management.

19 * * *

1 Sec. 5. 10 V.S.A. § 1283(f) is amended to read:

2 (f)(1) Except as provided in subsection 6618(a) of this title, 50 percent of
3 the revenues under the hazardous waste tax established under 32 V.S.A.
4 chapter 237 shall be deposited in the Environmental Contingency Fund. The
5 Secretary may reimburse the Fund with funds received from the U.S. Pollution
6 Prevention Revolving Fund authorized by subsection (k) of section 311 of
7 Public Law 92-500, as amended, codified in 1979 as 33 U.S.C. § 1321(k).
8 Monies may be accepted by the Secretary under written agreements with
9 responsible parties for release site cleanup to provide administrative, technical,
10 and management oversight.

11 (2) The amount of \$4.00 per ton of each assessment of the solid waste
12 franchise tax on waste facilities under 32 V.S.A. chapter 151, subchapter 13
13 shall be deposited into the Environmental Contingency Fund.

14 Sec. 6. EFFECTIVE DATE

15 This act shall take effect on July 1, 2023.