

[First Reprint]

ASSEMBLY, No. 1910

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Delays effective date of recycling tax.

CURRENT VERSION OF TEXT

As reported by the Assembly Environment and Solid Waste Committee on January 28, 2008, with amendments.



1 AN ACT concerning the recycling tax on solid waste generation, and
2 amending P.L.2007, c.311.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 4 of P.L.2007, c.311 (C.13:1E-96.5) is amended to
8 read as follows:

9 4. a. (1) **[There]** Beginning on April 1, 2008, there is levied
10 upon the owner or operator of every solid waste facility a recycling
11 tax of \$3.00 per ton on all solid waste accepted for disposal or
12 transfer at the solid waste facility.

13 The recycling tax shall not be imposed on solid waste transported
14 from an in-state transfer station from which the recycling tax has
15 been levied on the owner or operator thereof to an in-state solid
16 waste facility for final disposal.

17 (a) The recycling tax shall not be imposed on the owner or
18 operator of a railroad transfer station or other facility designed
19 exclusively to transport waste on railroads.

20 (b) The recycling tax shall not be imposed on the owner or
21 operator of a sanitary landfill facility for the acceptance for disposal
22 of the ash residue resulting from the incineration of solid waste at a
23 resource recovery facility.

24 (c) The recycling tax shall not be imposed on the owner or
25 operator of a solid waste facility for the acceptance for disposal of
26 solid waste originating from out-of-state sources under a contract
27 awarded prior to December 31, 2007 if the contract does not include
28 a change-in-law or similar mechanism by which the recycling tax
29 imposed by this section may be passed through as a fee or surcharge
30 on the rates and charges set forth in the contract.

31 (d) The recycling tax shall not be imposed on the owner or
32 operator of a resource recovery facility for the acceptance for
33 disposal of solid waste originating from in-state sources under a
34 contract awarded prior to December 31, 2007 if the contract does
35 not include a change-in-law or similar mechanism by which the
36 recycling tax imposed by this section may be passed through as a
37 fee or surcharge on the rates and charges set forth in the contract.

38 The recycling tax shall be imposed on the owner or operator of a
39 solid waste facility for the acceptance for disposal of solid waste
40 originating from out-of-state sources under any contract awarded
41 after December 31, 2007.

42 (2) **[There]** Beginning on April 1, 2008, there is levied upon
43 every solid waste collector that transports solid waste for
44 transshipment or direct transportation to an out-of-state disposal site

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted January 28, 2008.

1 a recycling tax. The recycling tax shall be levied on the solid waste
2 collector at the rate of \$3.00 per ton on all solid waste collected for
3 transportation to a railroad transfer station or other facility designed
4 to transport waste on railroads or directly to an out-of-state disposal
5 site.

6 b. (1) Every person subject to the recycling tax shall, [within 30
7 days of the effective date of this act] by March 1, 2008, register
8 with the director on forms prescribed by the director.

9 (2) Every person subject to the recycling tax shall, on or before
10 [the first day of the first full fiscal quarter following the effective
11 date of this act] '[July 1, 2008] July 20, 2008' , and quarterly
12 thereafter 'with returns due the 20th day of the first month following
13 the end of the quarter' , render a return under oath to the director,
14 on such forms as may be prescribed by the director, indicating the
15 number of tons of solid waste accepted for disposal or transfer, or
16 collected, as appropriate, and at that time shall pay the full amount
17 due.

18 c. If a return required by this section is not filed, or if a return
19 when filed is incorrect or insufficient in the opinion of the director,
20 the amount due shall be determined by the director from such
21 information as may be available. Notice of the determination shall
22 be given to the person subject to the recycling tax. The
23 determination shall finally and irrevocably fix the amount due,
24 unless the person on whom it is imposed, within 90 days after the
25 giving of the notice of the determination, shall file a protest in
26 writing as provided in R.S.54:49-18 and request a hearing, or unless
27 the director on the director's own motion shall redetermine the
28 same. After the hearing the director shall give notice of the
29 determination to the person on whom the recycling tax is imposed.

30 d. Any person subject to the recycling tax who fails to file a
31 return when due or to pay any tax when it becomes due, as herein
32 provided, shall be subject to such penalties and interest as provided
33 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If
34 the director determines that the failure to comply with any provision
35 of this section was excusable under the circumstances, the director
36 may remit that part or all of the penalty as shall be appropriate
37 under the circumstances.

38 e. The director shall deposit all revenues collected pursuant to
39 this section in the State Recycling Fund established pursuant to
40 section 5 of P.L.1981, c.278 (C.13:1E-96).

41 f. In addition to the other powers granted to the director in this
42 section, the director is authorized:

43 (1) To delegate to any officer or employee of the division those
44 powers and duties as the director deems necessary to carry out
45 efficiently the provisions of this section, and the person to whom
46 the power has been delegated shall possess and may exercise all of
47 these powers and perform all of the duties delegated by the director;

1 (2) To prescribe and distribute all necessary forms for the
2 implementation of this section.

3 g. (1) Every owner or operator of a solid waste facility may
4 collect the recycling tax imposed by this section by (a) including
5 the amount of recycling tax due as a separate line item on every
6 customer bill or other statement presented to a solid waste collector
7 or solid waste generator; (b) including the amount of recycling tax
8 due as a fee or surcharge on any amount collected under a contract
9 awarded pursuant to the "Local Public Contracts Law," P.L.1971,
10 c.198 (C.40A:11-1 et seq.) or any other law for the provision of
11 solid waste collection or solid waste disposal services; or (c)
12 imposing an automatic surcharge on any tariff established pursuant
13 to law for the solid waste disposal or transfer operations of the solid
14 waste facility.

15 (2) Every solid waste collector is hereby authorized to calculate,
16 charge and collect rates, fees or surcharges from all solid waste
17 generators serviced by the solid waste collector sufficient to recover
18 the recycling tax collected by the owner or operator of the solid
19 waste facility.

20 (3) Every solid waste collector subject to the recycling tax is
21 hereby authorized to calculate, charge and collect rates, fees or
22 surcharges from all solid waste generators serviced by the solid
23 waste collector sufficient to recover the recycling tax imposed by
24 this section.

25 h. The recycling tax imposed by this section shall be governed
26 in all respects by the provisions of the "State Tax Uniform
27 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
28 a specific provision of this section may be in conflict therewith.

29 i. (1) The recycling tax imposed by this section shall not be
30 imposed on the owner or operator of a materials recovery facility
31 for the acceptance of Type 13C Construction and Demolition waste,
32 provided that the facility meets or exceeds recyclable materials
33 extraction rates as established by the department.

34 (2) The recycling tax imposed by this section shall not be
35 imposed on a solid waste collector or the owner or operator of a
36 solid waste facility for the collection or acceptance for disposal or
37 transfer of residue resulting from the operations of a scrap
38 processing facility as defined in section 2 of P.L.1987, c.102
39 (C.13:1E-99.12).

40 j. The recycling tax imposed by this section shall not be imposed
41 on a solid waste collector or the owner or operator of a solid waste
42 facility for the collection or acceptance for disposal or transfer of
43 residue, provided that the residue is generated as a result of the use
44 of post-consumer waste material in the manufacture of a recycled
45 product which constitutes at least 75% of total annual sales dollar
46 volume of the products manufactured by a manufacturer in this
47 State as determined by the director.

1 k. The registration issued to any person subject to the recycling
2 tax who violates the provisions of this section may be subject to
3 revocation or suspension pursuant to section 12 of P.L.1970, c.39
4 (C.13:1E-12).

5 l. Subsections a. through k. of this section shall be without effect
6 on and after the tenth day following a certification by the Director
7 of the Division of Budget and Accounting in the Department of the
8 Treasury pursuant to subsection b. of section 6 of P.L.2007, c.311
9 (C.13:1E-96.7).
10 (cf: P.L.2007, c.311, s.4)

11

12 2. This act shall take effect immediately.