Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1114
(Energy and Natural Resources Committee)
(At the request of the State Department of Health)

AN ACT to amend and reenact section 23-29-03, subsection 3 of section 23-29-05.1, and section 23-29-12 of the North Dakota Century Code, relating to solid waste management; to repeal sections 23-29-09 and 23-29-16 of the North Dakota Century Code, relating to solid waste management correspondence and environmental protection; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-29-03 of the North Dakota Century Code is amended and reenacted as follows:

23-29-03. Definitions.

1. "Collection" means the aggregation of solid waste from the places at which the waste was generated.

2. "Department" means the state department of health.

3. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water including ground water.

4. "Industrial waste" means solid waste, which is not a hazardous waste regulated under chapter 23-20.3, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.

5. "Infectious waste" means solid waste that may contain pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.

6. "Landfill" means a publicly or privately owned area of land where solid wastes are permanently disposed.

7. "Litter" means discarded and abandoned solid waste materials <u>that are not special waste or industrial waste</u>.

8. "Major appliance" means an air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, or other similar appliance.

9. "Municipal waste" means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities; by public and private facilities; and by commercial, wholesale, and private and retail businesses. The term does not include special waste or industrial waste.

10. "Open burning" means the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.

11. "Person" means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, federal agency, political

subdivision of this state or any other state or political subdivision thereof, and any legal successor, representative agent, or agency of the foregoing.

12. "Political subdivision" means a city, county, township, or solid waste management authority.

13. "Resource recovery" means the use, reuse, or recycling of materials, substances, energy, or products contained within or derived from ~~municipal~~solid waste.

14. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does not include:

    a. Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or

    b. Solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].

15. "Solid waste management" means the purposeful systematic control of the storage, collection, transport, composting, resource recovery, land treatment, and disposal of solid waste.

16. "Special waste" means solid waste that is not a hazardous waste regulated under chapter 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.

17. "Storage" means the containment and holding of solid waste after generation for a temporary period, at the end of which the solid waste is processed for resource recovery, treated, disposed of, or stored elsewhere.

18. "Transport" means the offsite movement of solid waste.

SECTION 2. AMENDMENT. Subsection 3 of section 23-29-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A person violating this section is guilty of an infraction for which a minimum fine of ~~one~~two hundred dollars must be imposed, except if the litter discarded and abandoned amounted to more than one cubic foot [0.0283 cubic meter] in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor and the person is subject to the civil penalty provided in section 23-29-12.

SECTION 3. AMENDMENT. Section 23-29-12 of the North Dakota Century Code is amended and reenacted as follows:

23-29-12. Penalties.

~~Unless another penalty is specifically prescribed, a person violating this chapter, or any rule, order, or condition in a permit issued under this chapter, is subject to a civil penalty not to exceed one thousand dollars per day of such violation.~~

1. Any person who violates this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is subject to a civil penalty not to exceed

twelve thousand five hundred dollars per day per violation, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

2. Any person who willfully violates any provision of this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

3. Any person who willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter or who falsifies, tampers with, or willfully renders inaccurate any monitoring device or method required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

SECTION 4. REPEAL. Sections 23-29-09 and 23-29-16 of the North Dakota Century Code are repealed.

_____ Speaker of the House

_____ President of the Senate

_____ Chief Clerk of the House

_____ Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1114.

House Vote:	Yeas 90	Nays 0	Absent 4
Senate Vote:	Yeas 46	Nays 0	Absent 1

_____ Chief Clerk of the House

Received by the Governor at _____M. on _____, 2015.

Approved at _____M. on _____, 2015.

_____ Governor

Filed in this office this _____day of _____, 2015,

at _____ o'clock _____M.

_____ Secretary of State