

Presented to the governor May 2, 1995

Signed by the governor May 3, 1995, 11:00 a.m.

CHAPTER 111—H.F.No. 47

An act relating to solid waste; merging two conflicting amendments to the solid waste generator assessment statute that were enacted in 1994; correcting and clarifying terminology; amending Minnesota Statutes 1994, section 116.07, subdivision 10; repealing Laws 1994, chapter 510, article 6, section 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1994, section 116.07, subdivision 10, is amended to read:

Subd. 10. **SOLID WASTE GENERATOR ASSESSMENTS.** (a) For the purposes of this subdivision;

(1) "assessed waste" means mixed municipal solid waste as defined in section 115A.03, subdivision 21, infectious waste as defined in section 116.76, subdivision 12, pathological waste as defined in section 116.76, subdivision 14, industrial waste as defined in section 115A.03, subdivision 13a, and construction debris as defined in section 115A.03, subdivision 7; provided that all types of assessed waste listed in this clause do not include materials that are separated for recycling by the generator and that are collected separately from other waste and delivered to a waste facility for the purpose of recycling and recycled, and it also does not include waste generated outside of Minnesota;

(2) "noncompacted cubic yard" means a loose cubic yard of assessed waste;

(3) "nonresidential customer" means:

(i) an owner or operator of a business, including a home operated business, industry, church, nursing home, nonprofit organization, school, or any other commercial or institutional enterprise;

(ii) an owner of a building or site containing multiple residences, including a townhome or manufactured home park, where no resident has separate trash pickup, and no resident is separately assessed for such service; and

(iii) any other generator of assessed waste that is not a residential customer as defined in clause (6);

(4) "periodic waste collection" means each time a waste container is emptied by the person that collects the assessed waste;

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(5) "person that collects assessed waste" means each person that is required to pay sales tax on solid waste collection services under section 297A.45, or would pay sales tax under that section if the assessed waste was mixed municipal solid waste; and

(6) "residential customer" means:

(i) a detached single family residence that generates only household mixed municipal solid waste; and

(ii) a person residing in a building or at a site containing multiple residences, including a townhome or a manufactured home park, where each resident either (A) is separately assessed for waste collection or (B) has separate waste collection for each resident, even if the resident pays to the owner or an association a monthly maintenance fee which includes the expense of waste collection, and the owner or association pays the waste collector for waste collection in one lump sum.

(b) A person that collects assessed waste shall collect and remit to the commissioner of revenue a solid waste generator assessment from each of the person's customers as provided in paragraphs (c) and (d). A waste management facility that accepts assessed waste shall collect and remit to the commissioner of revenue the solid waste assessment as provided in paragraph (e).

(c) Except as provided in paragraph (f), the amount of the assessment for each residential customer is \$2 per year. Each ~~waste collector~~ person that collects assessed waste shall collect the assessment annually from each residential customer that is receiving mixed municipal solid waste collection service on July 1 of each year and shall remit the amount actually collected along with the ~~collector's~~ person's first remittance of the sales tax on solid waste collection services, described in section 297A.45, made after October 1 of each year. For buildings or sites that contain multiple residences that are not separately billed for collection services, the person who collects assessed waste shall collect the assessment for all the residences from the person who is billed for the collection service. Any amount of the assessment that is received by the ~~waste collector~~ person that collects assessed waste after October 1 of each year must be remitted along with the ~~collector's~~ person's next remittance of sales tax after receipt of the assessment.

(d) The amount of the assessment for each nonresidential customer is 60 cents per noncompacted cubic yard of periodic waste collection capacity purchased by the customer, based on the size of the container for the assessed waste. For a residential customer that generates assessed waste that is not mixed municipal solid waste, the amount of the assessment is 60 cents per noncompacted cubic yard of collection capacity purchased for the waste that is not mixed municipal solid waste, based on the size of the container for the waste. If the capacity purchased is for compacted cubic yards of mixed municipal solid waste, the noncompacted capacity purchased is based on the compaction ratio of 3:1. The commissioner of revenue, after consultation with the commissioner of the

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pollution control agency, shall determine, and may publish by notice, compaction rates for other types of waste where they exist and conversion schedules for waste that is managed by measurements other than cubic yards. Each waste collector person that collects assessed waste shall collect the assessment from each nonresidential customer as part of each statement for payment of waste collection charges and shall remit the amount actually collected along with the next remittance of sales tax after receipt of the assessment.

(e) A person who transports assessed waste generated by that person or by another person without compensation shall pay an assessment of 60 cents per noncompacted cubic yard or the equivalent to the operator of the waste management facility to which the waste is delivered. The operator shall remit the assessments actually collected under this paragraph to the commissioner of revenue ~~as though they were sales taxes under chapter 297A.~~ This paragraph subdivision does not apply to a person who transports industrial waste generated by that person to a facility owned and operated by that person.

(f) The amount of the assessment for each residential customer that is subject to a mixed municipal solid waste collection service for which the customer pays, based on the volume of waste collected, by purchasing specific collection bags or stickers from the waste collector, municipality, or other vendor is either:

(1) determined by a method developed by the waste collector or municipality and approved by the commissioner of revenue, which yields the equivalent of approximately a \$2 annual assessment per household; or

(2) three cents per each 35 gallon unit or less. If the per unit fee method under this clause is used, it is the responsibility of the waste collector or the municipality who is selling the bags or stickers to remit the amount of the assessment to the department of revenue, according to a payment schedule provided by the commissioner of revenue. The collection service and assessment under this clause shall be included in the price of the bag or sticker.

(g) The commissioner of revenue shall redesign sales tax forms for ~~solid persons that collect assessed waste collectors~~ to accommodate payment of the assessment. The amounts remitted under this subdivision must be deposited in the state treasury and credited to the landfill cleanup account established in section 115B.42.

(g) For the purposes of this subdivision, a "person that collects mixed municipal solid waste" means each person that is required to pay sales tax on ~~solid waste collection services under section 297A.45, or would pay sales tax under that section if the assessed waste was mixed municipal solid waste.~~

(h) For persons that collect assessed waste and operators of waste management facilities who are required to collect the solid waste generator assessments under this subdivision, and persons who are required to remit the assessment under paragraph (f), and who do not collect and remit the sales tax on solid waste collection services under section 297A.45, the commissioner of revenue

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shall determine when and in what manner the persons and operators must remit the assessment amounts actually collected.

(i) For the purposes of this subdivision, the requirement to "collect" the solid waste generator assessment under paragraph (b) means that the person to whom the requirement applies shall:

(i) include the amount of the assessment in the appropriate statement of charges for waste collection services and in any action to enforce payment on delinquent accounts;

(ii) accurately account for assessments received;

(iii) indicate to generators that payment of the assessment by the waste generator is required by law and inform generators, using information supplied by the commissioner of the agency, of the purposes for which revenue from the assessment will be spent; and

(iv) cooperate fully with the commissioner of revenue to identify generators of assessed waste who fail to remit payment of the assessment.

(j) The audit, penalty, enforcement, and administrative provisions applicable to taxes imposed under chapter 297A apply to the assessments imposed under this subdivision.

(k) If less than \$25,000,000 is projected to be available for new encumbrances in any fiscal year after fiscal year 1996 for expenditure from all existing dedicated revenue sources for landfill cleanup and reimbursement costs under sections 115B.39 to 115B.46, by April 1 before the next fiscal year in which the shortfall is projected the commissioner of the agency shall certify to the commissioner of revenue the amount of the shortfall. To provide for the shortfall, the commissioner of revenue shall increase the assessment under paragraphs (d) and (e) by an amount sufficient to generate revenue equal to the amount of the shortfall effective the following July 1 and shall provide notice of the increased assessment to affected waste generators by May 1 following certification to persons who are required to collect and remit the solid waste generator assessments under this subdivision.

Sec. 2. REPEALER.

Laws 1994, chapter 510, article 6, section 1, is repealed.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective beginning January 1, 1995.

Presented to the governor May 2, 1995

Signed by the governor May 3, 1995, 10:52 a.m.

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