

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 146

BY SENATOR TRUMP

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended, relating
2 to correcting a technical error within the Solid Waste Management Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-10. Prohibitions; permits required.

1 (a) Open dumps are prohibited and it is unlawful for any person to create, contribute to or
2 operate an open dump or for any landowner to allow an open dump to exist on the landowner's
3 property unless that open dump is under a compliance schedule approved by the director. Such
4 compliance schedule shall contain an enforceable sequence of actions leading to compliance and
5 shall not exceed two years. Open dumps operated prior to April 1, ~~1998~~ 1988, by a landowner or
6 tenant for the disposal of solid waste generated by the landowner or tenant at his or her residence
7 or farm are not a violation of this section if such open dump did not constitute a violation of law
8 on January 1, ~~1998~~ 1988, and unauthorized dumps which were created by unknown persons do
9 not constitute a violation of this section: *Provided*, That no person may contribute additional solid
10 waste to any such dump after April 1, ~~1998~~ 1988, except that the owners of the land on which
11 unauthorized dumps have been or are being made are not liable for such unauthorized dumping
12 unless such landowners refuse to cooperate with the division in stopping such unauthorized
13 dumping.

14 (b) It is unlawful for any person, unless the person holds a valid permit from the division
15 to install, establish, construct, modify, operate or abandon any solid waste facility. All approved
16 solid waste facilities shall be installed, established, constructed, modified, operated or abandoned
17 in accordance with §22-15-1 *et seq.* of this code, plans, specifications, orders, instructions and
18 rules in effect.

19 (c) Any permit issued under §22-15-1 *et seq.* of this code shall be issued in compliance
20 with the requirements of this that article, its rules and §22-11-1 *et seq.* of this code and the rules
21 promulgated thereunder, so that only a single permit is required of a solid waste facility under

22 ~~these~~ those two articles. Each permit issued under §22-15-1 *et seq.* of this code shall have a fixed
23 term not to exceed five years: *Provided*, That the director may administratively extend a permit
24 beyond its five-year term if the approved solid waste facility is in compliance with §22-15-1 *et seq.*
25 of this code, its rules and §22-11-1 *et seq.* of this code and the rules promulgated thereunder:
26 *Provided, however*, That such administrative extension may not be for more than one year. Upon
27 expiration of a permit, renewal permits may be issued in compliance with rules promulgated by
28 the director.

29 (d) For existing solid waste facilities which formerly held division of health permits which
30 expired by law and for which complete permit applications for new permits pursuant to §22-15-1
31 *et seq.* of this code were submitted as required by law, the division may enter an administrative
32 order to govern solid waste activities at such facilities, which may include a compliance schedule,
33 consistent with the requirements of the division's solid waste management rules, to be effective
34 until final action is taken to issue or deny a permit for such facility pursuant to §22-15-1 *et seq.* of
35 this code, or until further order of the division.

36 (e) No person may dispose in the state of any solid waste in a manner which endangers
37 the environment or the public health, safety or welfare as determined by the director: *Provided*,
38 That the carcasses of dead animals may be disposed of in any solid waste facility or in any other
39 manner as provided for in this code. Upon request by the director, the commissioner of the bureau
40 of public health shall provide technical advice concerning the disposal of solid waste or carcasses
41 of dead animals within the state.

42 (f) A commercial solid waste facility shall not discriminate in favor of or against the receipt
43 of any waste otherwise eligible for disposal at the facility based on its geographic origin.

44 (g) In addition to all the requirements of §22-15-1 *et seq.* of this code and the rules
45 promulgated hereunder, a permit to construct a new commercial solid waste facility or to expand
46 the spatial area of an existing facility, may not be issued unless the Public Service Commission
47 has granted a certificate of need, as provided in §24-2-1c of this code. ~~If the director approves a~~

48 ~~permit or permit modification, the certificate of need shall become a part of the permit and all~~
49 ~~conditions contained in the certificate of need shall be conditions of the permit and may be~~
50 ~~enforced by the division in accordance with the provisions of this article~~ If the director approves a
51 permit or permit modification, the certificate of need shall become a part of the permit and all
52 conditions contained in the certificate of need shall be conditions of the permit and may be
53 enforced by the division in accordance with the provisions of §22-15-1 *et seq.* of this code:
54 *Provided,* That the provisions of this subsection do not apply to materials recovery facilities or
55 mixed waste processing facilities as defined by §22-15-2 of this code, except within a thirty-five
56 mile radius of a facility sited in a karst geological region and which has been permitted by the
57 West Virginia Department of Environmental Protection as a mixed waste processing facility and
58 has received a certificate of need by July 1, 2016.

59 (h) The director shall promulgate legislative rules pursuant to §29A-3-1 *et seq.* of this code
60 which reflect the purposes as set forth in this section.

NOTE: The purpose of this bill is to correct a technical error as it relates to several dates.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.