

State of Wisconsin



1997 Senate Bill 355

Date of enactment: **December 19, 1997**

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1997 WISCONSIN ACT 60

AN ACT *to repeal* 287.25 (3) (cm); *to renumber and amend* 287.25 (4); *to amend* 287.11 (2) (dm), 287.19 (1) (a) 2., 287.25 (3) (a), 287.25 (4s), 287.25 (5) (b), 289.09 (1) and 289.09 (2) (b) and (d); and *to create* 287.25 (4) (b), 287.27, 289.09 (2) (a) 3. and 895.517 of the statutes; **relating to:** effective recycling programs, reports by materials recovery facilities, waste reduction and recycling demonstration grants, liability associated with materials reuse programs, requiring studies and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1m. 287.11 (2) (dm) of the statutes is amended to read:

287.11 (2) (dm) Beginning in 1997 January 1, 2000, a system of volume-based solid waste fees to generate revenue equal to the responsible unit's costs for solid waste management other than those reimbursed by the state. This criterion does not apply to any responsible unit that separates for recycling at least 25% by volume or by weight of the solid waste collected within the region by the responsible unit or by any person under contract with the responsible unit. This criterion does not apply to a responsible unit that provides solid waste to an operating solid waste treatment facility, as defined in s. 287.07 (7) (b) 1. b., under a contract that was in effect on January 1, 1993.

SECTION 2. 287.19 (1) (a) 2. of the statutes is amended to read:

287.19 (1) (a) 2. Maintaining current estimates of the amount of components of solid waste specified in s. 287.07 generated by categories of businesses, industries, municipalities and other governmental entities and of the

amount of material that is recovered from solid waste for reuse or recycling.

SECTION 3. 287.25 (3) (a) of the statutes is amended to read:

287.25 (3) (a) A municipality, public entity, private business or nonprofit organization which meets eligibility requirements established by the department may apply for a demonstration grant for the purpose of implementing innovative waste reduction and recycling activities or a community-wide waste reduction project.

SECTION 4. 287.25 (3) (cm) of the statutes is repealed.

SECTION 5. 287.25 (4) of the statutes is renumbered 287.25 (4) (a), and 287.25 (4) (a) (intro.) and 7., as renumbered, are amended to read:

287.25 (4) (a) (intro.) The department shall develop by rule criteria for determining eligibility, for approving, for determining the amount of and for establishing priorities for distributing demonstration grants for innovative waste reduction and recycling activities. These criteria shall include:

7. Consideration of the application or implementation of innovative technologies in a project which employs a proven technology in a waste reduction or recy-

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

clinging activity. Notwithstanding subd. 6., a project which employs a proven technology may receive grant moneys for that portion of the project which implements innovative technologies and applications.

SECTION 6. 287.25 (4) (b) of the statutes is created to read:

287.25 (4) (b) The department shall develop by rule eligibility criteria for determining eligibility, for approving and for determining the amount of demonstration grants for community-wide waste reduction projects and for establishing priorities for distributing the grants.

SECTION 7. 287.25 (4s) of the statutes is amended to read:

287.25 (4s) **REQUESTS FOR PROPOSALS.** The department may request proposals for a waste reduction and recycling activity or a community-wide waste reduction program eligible for funding under this section. Notwithstanding sub. (4) (a), (f) and (g), the department may award a demonstration grant for a waste reduction and recycling project proposed in response to a request under this subsection that does not implement innovative technology. The amount awarded for demonstration grants under this subsection in a fiscal biennium may not exceed 50% of the total amount available for demonstration grants under this section in that fiscal biennium.

SECTION 8. 287.25 (5) (b) of the statutes is amended to read:

287.25 (5) (b) An eligible applicant for a demonstration grant may receive a grant based upon the weight or equivalent volume of solid waste anticipated to be diverted from disposal at land disposal facilities but a demonstration grant may not exceed 50% of the actual eligible costs of the innovative waste reduction or recycling activities or 75% of the actual eligible costs of the community-wide waste reduction project or \$150,000, whichever is less. An applicant's required contribution for a demonstration grant may consist of funding or an in-kind contribution. The department may award up to 75% of the grant to the applicant upon approval. The department shall award the remainder of the grant only if the waste reduction and recycling activities are implemented and approved by the department. The department may not award grants under this section to any applicant that total more than \$250,000.

SECTION 9. 287.27 of the statutes is created to read:

287.27 Materials recovered for reuse or recycling.

(1) **DEFINITION.** In this section, "materials recovery facility" means a facility where the materials specified in sub. (4) (b) or s. 287.07 (3) or (4), not mixed with other solid waste, are processed for reuse or recycling by conversion into a consumer product or a product which is used as a raw material in a commercial or industrial process. "Materials recovery facility" does not include a facility operated by a pulp or paper mill which utilizes fiber or paper that has been separated from waste for use as a raw material in a commercial product.

(2) **REPORTS BY MATERIALS RECOVERY FACILITIES.** Annually, the owner or operator of a materials recovery facility shall report to the department the amount of each of the materials specified in s. 287.07 (3) or (4) and any other materials specified by the department under sub. (4) (b) that the materials recovery facility receives and that were recovered from waste generated in this state.

(3) **REPORTS BY TRADE ASSOCIATIONS.** A trade association may submit a report to the department containing the information required under sub. (2) in aggregate form for 2 or more materials recovery facilities that are affiliated with the trade association. A report under this subsection shall identify each materials recovery facility for which it is reporting. A materials recovery facility that is covered by a report under this subsection shall be considered to be in compliance with sub. (2).

(4) **RULES.** The department, by rule, may do any of the following:

(a) Specify the form and manner of reporting under subs. (2) and (3).

(b) Specify additional materials that the owner or operator of a materials recovery facility must report under sub. (2) or (3).

(c) Exempt certain materials recovery facilities from all or a part of the reporting requirements of subs. (2) and (3) if the reports are not needed for the calculation of solid waste reuse or recycling rates under s. 287.19 (1) (a) 2.

SECTION 10. 289.09 (1) of the statutes is amended to read:

289.09 (1) **RECORDS.** Except as provided under sub. (2), any records or other information furnished to or obtained by the department in the administration of this chapter and ~~s. ss. 287.27 and~~ 299.15 are public records subject to s. 19.21.

SECTION 11. 289.09 (2) (a) 3. of the statutes is created to read:

289.09 (2) (a) 3. An owner or operator of a materials recovery facility, as defined in s. 287.27 (1), may seek confidential treatment of information submitted under s. 287.27 (3).

SECTION 12. 289.09 (2) (b) and (d) of the statutes are amended to read:

289.09 (2) (b) *Standards for granting confidential status.* Except as provided under par. (c), the department shall grant confidential status for any records or information received by the department and certified by the owner or operator of the solid waste facility or materials recovery facility or by the licensed hauler as relating to production or sales figures or to processes or production unique to the owner or operator of the solid waste facility or materials recovery facility or which would tend to adversely affect the competitive position of the owner or operator if made public.

(d) *Use of confidential records.* Except as provided under par. (c) and this paragraph, the department or the department of justice may use records and other informa-

tion granted confidential status under this subsection only in the administration and enforcement of this chapter and ch. 287 or s. 299.15. The department or the department of justice may release for general distribution records and other information granted confidential status under this subsection if the owner or operator expressly agrees to the release. The department of natural resources or the department of justice may release on a limited basis records and other information granted confidential status under this subsection if the department of natural resources or the department of justice is directed to take this action by a judge or hearing examiner under an order which protects the confidentiality of the records or other information. The department of natural resources or the department of justice may release to the U.S. environmental protection agency, or its authorized representative, records and other information granted confidential status under this subsection if the department of natural resources or the department of justice includes in each release of records or other information a request to the U.S. environmental protection agency, or its authorized representative, to protect the confidentiality of the records or other information.

SECTION 13. 895.517 of the statutes is created to read:

895.517 Liability exemption: solid waste donation or sale. (1) In this section:

(a) "Charitable organization" has the meaning given in s. 895.51 (1) (b).

(b) "Municipality" has the meaning given in s. 289.01 (23).

(c) "Qualified food" has the meaning given in s. 895.51 (1) (e).

(d) "Responsible unit" has the meaning given in s. 287.01 (9).

(e) "Solid waste" has the meaning given in s. 289.01 (33).

(2) Any person who donates or sells, at a price not exceeding overhead and transportation costs, solid waste,

or a material that is separated from mixed soil waste, to a materials reuse program that is operated by a charitable organization, municipality or responsible unit is immune from civil liability for the death of or injury to an individual or the damage to property caused by the solid waste or material donated or sold by the person.

(3) This section does not apply if the death or injury was caused by wilful or wanton acts or omissions.

(4) This section does not apply to the sale or donation of qualified food.

SECTION 14. Nonstatutory provisions.

(1) STUDY OF THE FUTURE OF SOLID WASTE MANAGEMENT.

(a) The department of natural resources, in cooperation with the University of Wisconsin–Extension, shall study the future needs of solid waste management in this state. The study shall include an examination of methods to do all of the following:

1. Improve the coordination and cost–effectiveness of solid waste management in this state.

2. Increase the efficiency and effectiveness of current effective recycling programs under section 287.11 (2) of the statutes.

(b) On or before June 30, 1999, the secretary of natural resources and the chancellor of the University of Wisconsin–Extension shall submit the study report and any recommendations to the governor, and the chief clerk of each house of the legislature for distribution in the manner provided under section 13.172 (2) of the statutes.

SECTION 15. Initial applicability.

(1) The treatment of section 895.517 of the statutes first applies to sales or donations occurring on the effective date of this subsection.

SECTION 16m. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 287.11 (2) (dm) of the statutes takes effect retroactively to January 1, 1997.