

As Introduced

**126th General Assembly
Regular Session
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H. B. No. 59

Representatives Law, Harwood

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A BILL

To amend sections 3714.02, 3714.03, 3714.06, and 1
3714.13 of the Revised Code to require the 2
Director of Environmental Protection to adopt 3
rules establishing siting requirements applicable 4
to construction and demolition debris facilities 5
that are at least as stringent as siting criteria 6
applicable to solid waste facilities. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3714.02, 3714.03, 3714.06, and 8
3714.13 of the Revised Code be amended to read as follows: 9

Sec. 3714.02. ~~Within twelve months after July 24, 1990, the~~ 10
The director of environmental protection shall adopt, and may 11
amend and rescind, rules in accordance with Chapter 119. of the 12
Revised Code governing construction and demolition debris 13
facilities and the inspection of and issuance of licenses for 14
those facilities. The rules shall ensure that the facilities will 15
not create a nuisance, fire hazard, or health hazard or cause or 16
contribute to air or water pollution. The rules shall establish 17
all of the following: 18

(A) Siting requirements governing facilities in addition to 19
the requirements established in divisions (A) and (B) of section 20

3714.03 of the Revised Code. The additional siting requirements 21
shall be as stringent as and of a similar nature to siting 22
requirements applicable to solid waste facilities that are 23
established in rules adopted under Chapter 3734. of the Revised 24
Code. 25

(B) Standards for the design and construction of facilities. 26
These standards may include, without limitation, requirements for 27
diking around the areas where debris is buried to prevent runoff 28
of surface water onto adjacent property. 29

~~(B)~~(C) Standards for control over access to facilities; 30

~~(C)~~(D) Standards for the operation of facilities, including, 31
without limitation, standards for the compaction and covering of 32
debris disposed of and standards regarding equipment used for the 33
operation of facilities; 34

~~(D)~~(E) Criteria and procedures for granting authorization to 35
the owner or operator of a facility to dispose of asbestos or 36
asbestos-containing materials or products at ~~his~~ the owner's or 37
operator's facility; 38

~~(E)~~(F) Requirements for the installation of ground water 39
monitoring wells and the monitoring of ground water quality at any 40
facility where the operation of the facility threatens to 41
contaminate ground water; 42

~~(F)~~(G) Requirements respecting written, narrative plans for 43
the operation of facilities; 44

~~(G)~~(H) Requirements respecting contingency plans for 45
effective action in response to fire or explosion at a facility; 46

~~(H)~~(I) Financial assurance requirements for the closure of 47
facilities. The rules shall require that the owner or operator of 48
a facility, before being issued a license for the facility under 49
section 3714.06 of the Revised Code, submit a surety bond, a 50

letter of credit, or other acceptable financial assurance, as 51
specified by the director in the rules, in an amount equal to the 52
estimated costs for closure of those portions of the facility that 53
have been, are being, or are to be used for the disposal of 54
construction and demolition debris as contained in the closure 55
plan for the facility approved by the board of health of the 56
health district in which the facility is or is to be located or, 57
if the facility is or is to be located in a health district that 58
is not on the approved list under division (A) or (B)(1) or (2) of 59
section 3714.09 of the Revised Code, by the director. 60

~~(I)~~(J) Requirements for the closure of facilities. The 61
requirements shall include minimum requirements for the closure of 62
all facilities and such additional requirements as are reasonably 63
related to the location of the facility and the type and quantity 64
of materials disposed of in the facility. 65

The rules adopted under this section shall not prohibit the 66
open burning of construction debris on a construction site in 67
compliance with division (C)(1) of section 3704.11 of the Revised 68
Code. 69

The rules adopted under division (A) of this section shall 70
not apply to a facility for which a license has been issued prior 71
to the effective date of this amendment. However, the rules shall 72
apply to any modification of such a facility for which a license 73
is required and applied for under this chapter on or after the 74
effective date of this amendment. 75

Sec. 3714.03. Neither the director of environmental 76
protection nor any board of health shall issue a license under 77
section 3714.06 of the Revised Code to establish and operate a new 78
construction and demolition debris facility when any portion of 79
the facility is proposed to be located in a location that does not 80
comply with the siting requirements established in rules adopted 81

under division (A) of section 3714.02 of the Revised Code or in 82
either of the following locations: 83

(A) Within the boundaries of the one-hundred-year flood plain 84
of a watercourse, as those boundaries are shown on the applicable 85
maps prepared under the "National Flood Insurance Act of 1968," 82 86
Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or 87
operator has obtained an exemption from this division in 88
accordance with section 3714.04 of the Revised Code. With respect 89
to watercourses or portions thereof for which no such maps have 90
been prepared, the boundaries of the one-hundred-year flood plain 91
shall be determined by the applicant for a license based upon a 92
design storm of seven inches of precipitation in twenty-four hours 93
and upon standard methodologies set forth in "urban hydrology for 94
small watersheds" (soil conservation service technical release 95
number 55) and section 4 of the "national engineering hydrology 96
handbook" of the soil conservation service of the United States 97
department of agriculture. 98

(B) Within the boundaries of a sole source aquifer designated 99
by the administrator of the United States environmental protection 100
agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 101
42 U.S.C.A. 300f, as amended. 102

Sec. 3714.06. (A) No person shall establish, modify, operate, 103
or maintain a construction and demolition debris facility without 104
a construction and demolition debris facility installation and 105
operation license issued by the board of health of the health 106
district in which the facility is or is to be located or, if the 107
facility is or is to be located in a health district that is not 108
on the approved list under division (A) or (B)(1) or (2) of 109
section 3714.09 of the Revised Code, from the director of 110
environmental protection. Each person proposing to open a new 111
construction and demolition debris facility or to modify an 112

existing facility shall, at least ninety days before proposed 113
operation of the facility, submit an application for a license 114
with accompanying plans, specifications, and information regarding 115
the facility and its method of operation to the board of health of 116
the health district in which the facility is located or proposed 117
for approval as complying with the rules adopted under section 118
3714.02 of the Revised Code and the standards set forth in 119
divisions (A) and (B) of section 3714.03 of the Revised Code or, 120
if the health district in which the facility is located or 121
proposed to be located is not on the approved list under division 122
(A) or (B)(1) or (2) of section 3714.09 of the Revised Code, to 123
the director for approval as complying with those rules and 124
standards. If the board of health or the director, as appropriate, 125
finds that the proposed facility or modification complies with 126
those rules and standards, the board or director shall issue a 127
license for the facility. Any such license may be issued with such 128
terms and conditions as the board or the director, as appropriate, 129
finds necessary to ensure that the facility will comply with this 130
chapter and the rules adopted under it and to protect the public 131
health and safety and the environment. Licenses issued under this 132
section expire annually on the thirty-first day of December. 133

(B) During the month of December, but before the first day of 134
January of the next year, each person proposing to continue with 135
construction or operation of a construction and demolition debris 136
facility shall procure a license for the facility for that year 137
from the board of health of the health district in which the 138
facility is located or, if the facility is located in a health 139
district that is not on the approved list under division (A) or 140
(B)(1) or (2) of section 3714.09 of the Revised Code, from the 141
director. The application for a license shall be submitted to the 142
board of health or the director, as appropriate, on or before the 143
last day of September of the year preceding that for which the 144
license is sought. A person who has received a license, upon sale 145

or disposition of the facility, may, with the consent of the board
or the director, as appropriate, have the license transferred to
another person.

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~~(C) The owner or operator of a construction and demolition
debris facility that is in operation or under construction on the
effective date of this section shall, within six months after the
effective date of the rules adopted under section 3714.02 of the
Revised Code, submit to the board of the health district in which
the facility is located or under construction an application for a
construction and demolition debris facility installation and
operation license and accompanying plans, specifications, and
information regarding the facility and its method of operation. If
the health district in which such an existing facility is not on
the approved list under division (A) or (B)(1) or (2) of section
3714.09 of the Revised Code, the owner or operator of the facility
shall submit the application for a license and accompanying plans,
specifications, and information regarding the facility and its
method of operation to the director within that time. The board or
the director, as appropriate, shall issue a license for such an
existing facility within ninety days after receiving a complete
application therefor and accompanying plans, specifications, and
information if the board or the director finds that the facility
complies with the rules adopted under section 3714.02 of the
Revised Code. When issuing a license under this division for an
existing facility or a license to expand any existing facility
that was initially licensed under this division onto contiguous
land owned by the owner or operator of the existing facility on
the date on which the application for a license for the facility
was submitted under this division, neither the board nor the
director shall consider whether the existing facility complies
with the standards set forth in divisions (A) and (B) of section
3714.03 of the Revised Code.~~

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~~If the board of health or the director denies an application submitted under this division, the board or the director shall include in the order denying the application the requirements that the owner or operator of the facility submit a plan for closure of the facility to the board or the director, as appropriate, for approval within six months after issuance of the order; cease accepting construction and demolition debris for disposal; and commence closure of the facility within one year after issuance of the order.~~

~~(D)~~(C) Upon issuance of a license under this section, the board of health shall mail a copy of the license to the director. If a license authorizes construction of a new facility or modification of an existing facility, the board shall also mail with the license a copy of the approved plans, specifications, and information regarding the facility and its method of operation.

Sec. 3714.13. (A) No person shall violate any section of this chapter.

(B) No person shall violate a rule adopted under this chapter.

(C) No person shall violate an order issued under this chapter. Violation of an order issued by a board of health under this chapter is not also a violation of section 3709.20 or 3709.21 of the Revised Code, whichever is applicable.

(D) No person who holds a license issued under this chapter shall violate any of the terms or conditions of the license.

(E) No owner or operator of a construction or demolition debris facility shall dispose of asbestos or asbestos-containing materials or products at the facility unless ~~he~~ the owner or operator is specifically authorized to do so by the board of health of the health district in which the facility is located, or

by the director, pursuant to rules adopted under division ~~(D)~~(E) 208
of section 3714.02 of the Revised Code. 209

(F) No person shall knowingly place or cause to be placed any 210
reinforced or nonreinforced concrete, asphalt, clay tile, building 211
or paving brick, or building or paving stone resulting from the 212
alteration, construction, destruction, rehabilitation, or repair 213
of any ~~manmade~~ artificial physical structure as fill material on 214
or in any land owned, leased, or controlled by the person, other 215
than on the site where the materials were so generated or removed, 216
without providing written notice to the board of health of the 217
health district in which the land is located or, if the health 218
district is not on the approved list under division (A) or (B)(1) 219
or (2) of section 3714.09 of the Revised Code, to the director of 220
environmental protection at least seven days prior to the first 221
placement of any such materials as fill material at the off-site 222
location. 223

Section 2. That existing sections 3714.02, 3714.03, 3714.06, 224
and 3714.13 of the Revised Code are hereby repealed. 225

Section 3. The Director of Environmental Protection shall 226
adopt rules establishing siting criteria applicable to 227
construction and demolition debris facilities as required by 228
division (A) of section 3714.02 of the Revised Code, as amended by 229
this act, not later than ninety days after the effective date of 230
this act. 231