HB140

203844-1

By Representative Baker

RFD: County and Municipal Government

First Read: 04-FEB-20
SYNOPSIS: This bill would clarify existing law relating to disposal of solid waste, to provide that landfills covered by substances other than earth are included within the definition of a landfill.

A BILL TO BE ENTITLED
AN ACT

Relating to solid waste disposal; to amend Section 22-27-2, Code of Alabama 1975, to provide that landfills covered by substances other than earth are included within the definition of a landfill.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 22-27-2, Code of Alabama 1975, is amended to read as follows:

"§22-27-2.
"For the purpose of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) AGENCY. Any controlling agency, public or private, elected, appointed, or volunteer utilizing methods approved by the health department or the department for the purpose of controlling and supervising the collection or management of solid wastes or recyclable materials.

"(2) ASHES. The solid residue from burning of wood, coal, coke, or other combustible material used for heating, from incineration of solid wastes, or for the production of electricity at electric generating plants.

"(3) COAL COMBUSTION BY-PRODUCTS. Fly ash, bottom ash, boiler slag, or flue gas emission control by-products which result primarily from the combustion of coal or other fossil fuels at electric generating plants.

"(4) COMPOSTING OR COMPOST PLANT. An officially controlled method or operation whereby putrescible solid wastes are broken down through microbic action to a material offering no hazard or nuisance factors to public health or well-being.

"(5) DEPARTMENT. The Alabama Department of Environmental Management.

"(6) DIRECTOR. The Director of the Alabama Department of Environmental Management or his or her designee."
"(7) DISCHARGE. The accidental or intentional spilling, leaking, pumping, emitting, emptying, or dumping of solid waste, including leachate, into or on any land or water.

"(8) DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including, but not limited to, ground waters.

"(9) FACILITY. All contiguous land, structures, and other appurtenances used for the processing, treatment, storage, or disposal of solid waste, or the recovery of recyclable materials from solid waste, whether or not authorized or permitted, including, but not limited to, waste disposal areas and waste disposed therein.

"(10) FINANCIAL ASSURANCE. A financial arrangement by the owner or operator of a municipal solid waste landfill which guarantees the availability of funds which may be used to close, provide post-closure care, or conduct corrective action at that facility if the owner or operator fails to properly execute his or her responsibilities under this article and any rules promulgated by the department for closure, post-closure care, or corrective action and the terms of any permit issued for operation of that facility.

"(11) GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, including wastes from markets, storage
facilities, handling and sale of produce and other food products and excepting such materials that may be serviced by garbage grinders and handled as household sewage.

"(12) GENERATION. The act or process of producing solid waste. Solid waste shall be considered to be generated at the point that waste materials are first discarded or collected, regardless of any subsequent materials recovery or recycling.

"(13) HAZARDOUS WASTES. Those wastes defined in, and regulated under, the Alabama Hazardous Waste Management and Minimization Act of 1978, as amended.

"(14) HEALTH DEPARTMENT. An approved county or district health department, including the Alabama State Department of Public Health and the affected state and county health department.

"(15) HEALTH OFFICER. The state or affected county health officer or his or her designee.

"(16) HOUSEHOLD WASTE. Any solid waste, including, but not limited to, garbage, trash, and sanitary waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas. Sanitary waste in septic tanks shall be considered as household waste only when it is disposed in a landfill or unauthorized dump and its inclusion as a household waste shall in no way prohibit or supersede the authority of the board or the department to regulate onsite
sewage systems or the management of sanitary waste in septic tanks.

"(17) INCINERATOR. A device designed to burn that portion of garbage and rubbish which will be consumed at temperatures generally ranging 1,600 degrees Fahrenheit or over. The unburned residue from an incinerator, including metal, glass, and the like shall be called ashes.

"(18) INDUSTRIAL SOLID WASTE. Solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Chapters 22 to 30, inclusive, of this title.

"(19) INNOCENT LANDOWNER. An owner of real property upon which there is located an unauthorized dump and who meets all of the following conditions:

"a. The solid waste was disposed of on the property after the owner acquired title to the property or the waste was disposed of before the owner acquired title to the property and the owner lacked actual knowledge of the waste after conducting reasonable due diligence or title was acquired by bequest or devise.

"b. The owner did not have knowledge that the waste was being disposed of on the property or the owner took steps, including, but not limited to, posting signs to prevent disposal on the property.

"c. The owner did not participate in or consent to the disposal of solid waste on the property.
"d. The owner did not receive any financial benefit from the disposal of solid waste on the property.
"e. Title to the property was not transferred to the owner for the purpose of evading liability for operating an unauthorized dump.
"f. The person or persons responsible for disposing of the solid waste on the property, in doing so, were not acting as an agent for the owner.

"(20) LANDFILL. A method of compaction and earth cover of solid wastes other than those containing garbage or other putrescible wastes, including, but not limited to, tree limbs and stumps, demolition materials, incinerator residues, and like materials not constituting a health or nuisance hazard, where cover need not be applied on a per day used basis.

"(21) MATERIALS RECOVERY FACILITY. A solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials. A materials recovery facility shall be deemed to be a solid waste treatment facility.

"(22) MEDICAL WASTE. A solid waste or combination of solid wastes which because of its infectious characteristics may either:
"a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
"b. Pose a substantial present hazard or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

"(23) MUNICIPAL SOLID WASTE LANDFILL. A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A municipal solid waste landfill may also receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, industrial solid waste, construction/demolition waste, and rubbish. A municipal solid waste landfill is a sanitary landfill.

"(24) PERSON. An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, agent, agency, association, state, municipality, commission, political subdivision of a state, an interstate body, or other private or public legal entity.

"(25) PRIVATE SOLID WASTE MANAGEMENT FACILITY. A solid waste management facility that is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated on-site or by the permittee.

"(26) PUBLIC SOLID WASTE MANAGEMENT FACILITY. A solid waste management facility that accepts solid waste from the public generally or for a fee or any solid waste management facility that is not a private solid waste management facility.
(27) RECOVERED MATERIALS. Those materials which have known recycling potential; which can be feasibly recycled; which have been diverted or removed from the solid waste stream for recycling, whether or not requiring subsequent separation and processing; and which have a substantial portion that is consistently used in the manufacture of products which may otherwise be produced from raw or virgin materials. Recovered materials shall not include solvents or materials, except sawdust, bark, and paper materials that are destined for incineration, energy recovery, or any use which constitutes disposal. Recovered materials shall only be those materials for which during the calendar year, commencing on January 1, the amount of material recycled or diverted from the solid waste stream for recycling and transferred to a different site for recycling equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.

(28) RECOVERED MATERIALS PROCESSING FACILITY. A facility primarily engaged in the storage, processing, and resale or reuse of recovered materials. A recovered materials processing facility is not a solid waste management facility; however, any solid waste resulting from the operation of a facility shall be subject to all applicable laws and regulations relating to solid waste and shall be deemed to be generated for purposes of reporting pursuant to solid waste reduction goals, at the point of collection of the recovered materials from which the solid waste resulted. A recovered
material processing facility shall provide notification to the department according to rules adopted by the department.

"(29) RECYCLABLE MATERIALS. Those materials which are capable of being recycled, whether or not the materials have been diverted or removed from the solid waste stream.

"(30) RECYCLING. Any process by which materials are collected, separated, stored, recovered, or processed and reused or returned to use in the form of raw materials or products, but does not include the use of materials as a fuel, or for any use which constitutes disposal.

"(31) RUBBISH. Nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures, not less than 1,600 degrees Fahrenheit.

"(32) SANITARY LANDFILL. A controlled area of land upon which solid waste is deposited and is compacted and covered with compacted earth each day as deposited, with no on-site burning of wastes, and so located, contoured, and drained that it will not constitute a source of water pollution as determined by the department.

"(33) SOLID WASTE. Any garbage, rubbish, construction or demolition debris, ash, or sludge from a waste treatment facility, water supply plant, or air pollution
control facility, and any other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or community activities, or materials intended for or capable of recycling, but which have not been diverted or removed from the solid waste stream. The term "solid waste" does not include recovered materials, solid or dissolved materials in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges which are point sources subject to the National Pollutant Discharge Elimination System permits under the Federal Water Pollution Control Act, as amended, or the Alabama Waste Pollution Control Act, as amended; or source, special, nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are land applications of crop residues, animal manure, and ash resulting exclusively from the combustion of wood during accepted agricultural operations, waste from silvicultural operations, or refuse as defined and regulated pursuant to the Alabama Surface Mining Act of 1969, Article 1, commencing with Section 9-16-1, of Chapter 16 of Title 9.

"(34) SOLID WASTE DISPOSAL FACILITY. Any landfill or part of a facility where final deposition of solid waste occurs and at which waste may remain after closure.

"(35) SOLID WASTE MANAGEMENT. The systematic control of solid waste including its storage, processing, treatment, recovery of materials from solid waste, or disposal.
(36) SOLID WASTE MANAGEMENT FACILITY. Any solid waste volume reduction plant, transfer station, material recovery facility, or other facility, the purpose of which is the storage, treatment, utilization, processing, disposal, or recovery of materials from solid waste, or any combination thereof.

(37) UNAUTHORIZED DUMP. Any collection of solid wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the department. Abandoned automobiles, large appliances, or similar large items of solid waste shall be considered an unauthorized dump within the meaning of this article. The careless littering of a relatively few, smaller individual items such as tires, bottles, cans, and the like shall not be considered an unauthorized dump, unless the accumulation of solid waste poses a threat to human health or the environment. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of this article.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.