

**Act 148 (H.485). An Act Relating to Establishing Universal Recycling of Solid Waste**  
Section-by-Section Summary as Enacted

**Overview**

- Generally, this bill is intended to improve solid waste management services provided to state citizens while simultaneously creating economic development opportunities in the state by diverting waste from landfills to facilities that can repurpose the waste into alternative products or uses.
- Specifically, the bill would require the recycling of traditional recyclable containers, leaf and yard residuals, and food residuals.
- The bill also requires an ANR assessment of the state waste management system, including services provided, success of the existing services, cost of existing services, and method or recommendations for improving solid waste management services.

**Section-by-Section Summary**

**Section 1. 10 V.S.A. § 6602. Definitions Section for Solid Waste Management Chapter**

- Adds new definitions to the definitions section for solid waste management authority
- Important new definitions are:
  - Mandated recyclable, § 6602(28): Source-separated, traditional recyclable materials, such as cans, glass bottles, plastic containers, cardboard, newspaper, etc.
  - Leaf and yard residual, § 6602(29): Source-separated, compostable untreated vegetative matter, including grass clippings, brush, leaves, and kraft paper bags [Note: these are brown shopping bags, which are often used to collect and dispose of leaves.]
  - Food residual, § 6602(31): Source-separated, compostable material derived from the processing or discarding of food.
  - Source-separated, § 6602(32): Separation of compostable and recyclable materials from noncompostable, nonrecyclable materials at the point of generation.
  - Wood waste, § 6602(33): Trees, untreated wood, and other natural woody debris.
- [Note: Wood waste is banned from landfill disposal in 2016 but is not required to be collected by a transporter.]
- [Note: The definition of Implementation Plan is amended, 10 V.S.A. 6602(19). The new language requiring a solid waste plan to conform to municipal and regional plans and requiring ANR approval is existing law moved here due to amendment of 10 V.S.A. § 6604.]

**Section 2. 10 V.S.A. § 6604. Solid Waste Management Plan**

- This section amends the requirement that ANR develop a state solid waste management plan.
- § 6604(a): Requires solid waste plan to be readopted by November 2013.
  - § 6604(a)(1): Requires the solid waste plan to promote certain priorities found appropriate for certain categories of waste streams, based on data obtained by ANR.
  - The priorities include: 6604(1)(B), materials management which promotes generation of less waste and manufacturer responsibility; 6604(1)(C), closed loop recycling; 6604(1)(D), reduction on the reliance of disposal; and 6604(1)(E), the creation of an integrated waste management system [Note: An integrated waste management system is one that promotes management of waste through separation of materials by type.]
  - § 6604(a)(2): Amends the content of the solid waste management plan to require:
    - § 6604(a)(2)(A): An analysis of the volume and nature of the waste stream, including a waste composition study.
    - § 6604(a)(2)(B): An assessment of the cost of diverting waste categories from disposal, including, to the extent the information is available, the cost to stakeholders.
    - § 6604(a)(2)(C): A survey of existing markets for waste categories.
    - § 6604(a)(2)(D): Measurable goals for waste diversion.
    - § 6604(a)(2)(F): An education and outreach program regarding the objectives of the plan and the separation of material from landfill disposal.
    - § 6604(a)(2)(G): Performance and accountability measures to ensure compliance with a municipal implementation plan.
- § 6604(b): Amends existing requirement that ANR report to general assembly to require a report to the jurisdictional committees and to require posting recommendation for 45 days for comment.
- § 6604(b): Strikes ANR's requirement to adopt a hazardous waste management plan every five years.
  - [Note: The hazardous waste management plan is struck because it is obsolete. The plan is for state capacity to store hazardous materials. Since state and federal law require such waste to be disposed of at specialized, certified facilities, hazardous waste is shipped out of state. The state will still have a hazardous waste management plan and program, see Sec. 3 of bill, 10 V.S.A. § 6603(9), but would not be required to amend it every five years.]
- § 6604(b): ANR makes recommendations to the general assembly regarding the volume, amount, and toxicity of the waste stream.
- [Note: Plan must be revised every five years, § 6604(a)(2).]

**Section 3. 10 V.S.A. § 6603. Powers of Secretary of ANR; Hazardous Waste; Rates**

- § 6603(9): Authorizes ANR to manage hazardous wastes generated, transported, treated, stored, or disposed of in the state according to the minimum requirements of the federal Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation, and Liability Act.
- § 6603(10): Authorizes ANR to require solid waste facilities and transporters to provide rate transparency.

**Section 4. 10 V.S.A. § 6605. Solid Waste Management Facility Certification**

- § 6605(b)(3)(B): If a municipality does not have an approved implementation plan, 100 percent of leaf and yard residuals shall be removed from the waste stream. Also, amends the term marketable recyclable to mandated recyclable to be consistent with new definitions in bill.
  - This section is largely existing law, necessary to prevent municipalities that fail to implement a plan from benefiting from failure to implement the plan.
- § 6605(c): Strikes requirement that implementation plan be consistent with the state plan—this requirement is moved to 10 VSA § 6602(19).
  - [Note: Section also strikes a duplicative requirement that a facility not be recertified for sludge and septage application unless included in an implementation plan. 6605(c) still requires a facility applying sludge and septage to be included in an implementation plan.]
- § 6605(j): Requires solid waste facilities to separate recyclable materials from solid waste. Facilities certified by ANR for solid waste management shall:
  - Beginning July 1, 2014—collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.
  - Beginning July 1, 2015—collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to locations that manage leaf and yard residuals in a manner consistent with priority uses established in § 6605(a)(3)–(5) (diversion for agricultural use, composting, and energy recovery).
  - Beginning July 1, 2017—collect food residuals separate from solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with priority uses established under § 6605(a)(2)–(5) (diversion for food consumption, diversion for agricultural use, composting, and energy recovery)
- § 6605(k): The secretary by rule may adopt exemptions to the requirements of collection under 6605(j), provided that the exemption is consistent with the state plan.
- § 6605(l): A facility that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables.
  - A facility may incorporate the cost of collection of mandated recyclables into the cost of collection of solid waste.
  - Facilities may charge a separate fee for collection of leaf and yard residuals or food residuals.

- Facilities may charge commercial hauler for the collection of mandated recyclables.

**Section 5. 10 V.S.A. § 6605c. Solid Waste Categorical Certifications**

- Makes conforming amendments to the categorical certifications that ANR issues for certain categories of low-risk waste.
- Recyclable material could now qualify for a categorical certification, and the limit of no more than 400 tons would be removed.

**Section 6. 10 V.S.A. § 6605k. Food Residuals; Management Hierarchy**

- § 6605k(a): Sets policy for the hierarchy of how food residuals should be managed for the various uses for which it is available.
  - First priority is: reduction of the amount generated at the source.
  - Second priority is: diversion for food consumption by human.
  - Third priority is: diversion or agricultural use, including animal consumption.
  - Fourth priority is: composting, nutrient management, or digestion.
  - Fifth priority is: energy recovery.
- § 6605k(b): Requires generators of food residuals to separate food residuals from solid waste and arrange for transfer to a facility that manages it according to the priority uses identified in 6605k(a) or manage it on site.
  - The requirement to separate is only triggered when the generator exceeds the threshold amount and the generator is located within 20 miles of a certified organics management facility that has available capacity and is willing to accept the material.
  - There would be a de minimis exception to recognize that not all food residuals would be separated from solid waste.
  - [Note: De minimis is not defined, because it may vary for generator type—restaurants may have one de minimis level, grocery stores another. ANR has authority to adopt these levels in rule.]
- § 6605k(c): The requirement to separate food residuals would be phased in based on the tonnage of food residuals generated per year.
  - Beginning July 2014, a person who generates more than 104 tons of food residuals per year.
  - Beginning July 1, 2015, a person generating more than 52 tons per year.
  - Beginning July 1, 2016, a person generating more than 26 tons per year.
  - Beginning July 1, 2017, a person generating more than 18 tons per year.
  - Beginning July 1, 2020, any person generating any amount.

**Section 7. 10 V.S.A. § 6605l. Public Collection Containers**

- Beginning July 1, 2015, when a public building or public land provides a container for solid waste collection, an equal number of containers shall be provided for mandated recyclables.

- An equal number of containers is not required in a bathroom in a public building or on public land.

**Section 8. 10 V.S.A. § 6607a. Waste Transportation**

- Amends requirements for certification of waste transporters.
- § 6607a(a): Deletes obsolete or unnecessary provisions requiring ANR to review a certain number of permits annually and allowing solid waste flow control.
  - [Note: Most solid waste flow control is generally unconstitutional under the dormant commerce clause and is one reason why this language should be struck.]
- § 6607a(g)(1): Requires certified waste transporters that collect solid waste to offer to collect recyclables as follows:
  - Beginning July 1, 2015—collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.
  - Beginning July 1, 2016—collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to locations that manage leaf and yard residuals in a manner consistent with priority uses established in § 6605(a)(3)–(5) (diversion for agricultural use, composting, and energy recovery).
  - Beginning July 1, 2017—collect food residuals separate from solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with priority uses established under § 6605(a)(2)–(5) (diversion for food consumption, diversion for agricultural use, composting, and energy recovery).
- § 6607a(g)(2): Provides an exception from collection requirements for transporters in towns that:
  - Have adopted an ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals.
  - The ordinance is applicable to all municipal residents.
  - The ordinance prohibits a resident from opting out of solid waste services.
  - The municipality does not apply a variable rate for the collection of material.
  - [Note: This addresses Middlebury, Burlington, and other towns that adopted such ordinances.]
- § 6607(g)(3): Provides an exception from the collection requirements for transporters in a specified area within a municipality if:
  - The secretary approves a solid waste management plan for the municipality.
  - The approved plan delineates an area when solid waste management services for leaf and yard residuals or food residuals are not required.
  - In the delineated area, alternative services for leaf and yard residuals or food residuals are available and convenient.
- § 6607(h): A transporter that offers the collection of solid waste shall not charge a separate line item fee to a residential customer for the collection of mandated recyclables.

- A transporter may charge a fee for all service calls, stops, or collection at a residential property and may charge a tiered fee based on size of collection container or amount of waste collected.
- A transporter may incorporate the cost of collection of mandated recyclables into the cost of collection of solid waste.
- Transporters may charge a fee for collection of leaf and yard residuals or food residuals.

**Section 9. 10 V.S.A. § 6613. Variances**

- **§ 6613(b):** Allows a solid waste facility to apply to ANR for a variance from the requirements to collect and separate leaf and yard residuals or food residuals if:
  - the facility demonstrates alternative services are available in the area served by the facility.
  - the alternative services have capacity to serve the needs of all persons served by the facility requesting a variance.
  - the alternative services are convenient.

**Section 10. 10 V.S.A. § 6621a. Landfill Disposal Requirement**

- **§ 6621a.** Bans certain material from disposal in landfills.
  - 6621a(a)(6): Bans certain batteries, including batteries added by ANR by rule.
  - 6621a(a)(8): Bans mandated recyclable materials after July 1, 2015.
  - 6621a(a)(9): Bans leaf and yard residuals and wood waste after July 1, 2016.
  - 6621a(a)(11): Bans food residuals after July 1, 2020.

[Note: There is no de minimis exception on the landfill bans, but ANR enforcement of the bans is discretionary and there will not be enforcement for minor incidental disposal in violation of the ban.]

**Section 11. 24 V.S.A. § 2202a(d). Municipal Plans; Variable Rate Pricing**

- **§ 2202a(d):** Requires municipal solid waste implementation plans, which are currently required for all municipalities, to implement by July 1, 2015 variable rate pricing (pay as you throw) for the collection of municipal solid waste.
  - [Note: This requirement is a mechanism for variable rate pricing—not the specific fee to be charged.]

**Section 12. ANR Report on Solid Waste**

- On or before November 2013, ANR shall report to the general assembly with a comprehensive analysis of the waste system in the state, including:
  - An analysis of the type of waste.
  - A cost analysis of the entire state system and of managing individual categories.
  - Local governance analysis—how municipalities address waste management and the type of service provided.

- Infrastructure analysis, including the facilities and programs necessary to achieve priorities in the state and an assessment of landfill capacity in the state.
- Natural resources and environmental analysis—a narrative summary of impacts on the environment, including air quality, water quality, and aesthetics.
- Legislative recommendations—whether to amend state statutes and rules regarding solid waste management.

**Section 13.** Repeals Mercury Advisory Committee

**Section 14.** ANR Report on Waste Tires

- On or before January 15, 2013, the act requires ANR to submit to the general assembly a report on the management of waste tires in the state, including an inventory of the problems.

**Section 15.** 10 V.S.A. § 6618. Solid Waste Management Assistance Account

- Authorizes expenditures from the solid waste management assistance account for proper disposal of waste tires.

**Section 16.** 10 V.S.A. § 7551. E-Waste Definitions

- Makes technical corrections to e-waste definitions.
- § 7551(4): Clarifies that a collector is a person who receives electronic waste and who performs certain functions, such as arranging for delivery to a recycler, sorting, consolidation, or data security—such as shredding motherboards.
- § 7551(5): Rearranges definition and adds tablet computer to definition of computer.
- § 7551(9): Clarifies that a person is presumed to be a covered entity (a person entitled to free collection) if the person delivers seven or fewer covered electronic devices to a collector.
- § 7551(14): Allows ANR to set the program year for the e-waste program in the state plan in order to account for agency demands and market pressures.

**Section 17.** [Deleted from bill as passed]

**Section 18.** ANR Report on the Costs and Benefits of Expansion of Beverage Container Redemption System

- Requires ANR to report to general assembly on or before November 1, 2103 regarding the costs and benefits of expanding the beverage container redemption system.

**Section 18a.** State House Recycling Program

- Requires the sergeant at arms on or before July 1, 2012 to establish a program for the recycling of mandated recyclables at the state house.

**Section 19.** 10 V.S.A. § 8003(a). ANR Enforcement

- Amends ANR's enforcement section to provide ANR enforcement authority over:

- municipal compliance with the requirement in 24 V.S.A. § 2202a to adopt and implement a solid waste management plan; and
- the requirements for the use of plastic carryout bags.

**Section 20.** 10 V.S.A. § 8503(g). ANR Appeals

- Provides for appeal rights of:
  - ANR enforcement that municipal plan does not conform with state plan; and
  - ANR enforcement of plastic bag requirements.

**Section 21.** Effective Date

- The act takes effect on July 1, 2012.