



HOUSE BILL 402: Limit Env. Liability for Certain Recyclers.

2017-2018 General Assembly

Committee:		Date:	September 11, 2017
Introduced by:		Prepared by:	Jennifer McGinnis Staff Attorney
Analysis of:	S.L. 2017-163		

OVERVIEW: *S.L. 2017-163 exempts persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria.*

This act became effective July 21, 2017.

CURRENT LAW/BACKGROUND: The federal Superfund law (officially the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA") imposes liability on parties responsible for, in whole or in part, the presence of hazardous substances at a site. There are four classes of Superfund liable parties:

- Current owners and operators of a facility,
- Past owners and operators of a facility at the time hazardous wastes were disposed,
- Generators and parties that arranged for the disposal or transport of the hazardous substances, and
- Transporters of hazardous waste that selected the site where the hazardous substances were brought.

The Superfund Recycling Equity Act (SREA) of 1999, however, amended CERCLA to exempt certain persons who "arranged for recycling of recyclable materials" from such liability. A recycler, however, must satisfy a number of criteria, demonstrated by a preponderance of the evidence, in order to avail themselves of the liability exemption. For instance, the following conditions must exist at the time of the transaction:

- A market exists for the material.
- The party must have exercised reasonable care to determine whether a consuming facility is in compliance with all applicable environmental laws.

G.S. 130A-310.7, sometimes considered the State's "superfund" law, provides that, with limited exceptions, any person who:

- Discharges or deposits; or

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- Contracts or arranges for any discharge or deposit; or
- Accepts for discharge or deposit; or
- Transports or arranges for transport for the purpose of discharge or deposit

any hazardous substance, the result of which discharge or deposit is the existence of an inactive hazardous substance or waste disposal site, shall be considered a responsible party and liable for cleanup of the site.

BILL ANALYSIS: This act amends G.S. 130A-310.7 to exempt persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria set forth in the federal SREA.

EFFECTIVE DATE: This act became effective July 21, 2017.