

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30566-MHa-182

Short Title: Food Waste Reduction Act. (Public)

Sponsors: Representative Hawkins.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE FOOD RECOVERY AND RECYCLING ACT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Article 9 of Chapter 130A of the General Statutes is amended by
5 adding a new Part to read:

6 "Part 9.

7 "Food Donation and Food Scrap Recycling.

8 **"§ 130A-310.80. Definitions.**

9 Unless a different meaning is required by the context, the definitions of G.S. 130A 290 and
10 the following definitions apply throughout this Part:

- 11 (1) Designated food scraps generator. – A person who generates at a single
12 location an annual average of two tons per week or more of food scraps based
13 on a methodology established by the Department by rule, including
14 supermarkets, large food service businesses, higher educational institutions,
15 hotels, food processors, correctional facilities, and sports or entertainment
16 venues. For a location with multiple independent food service businesses,
17 such as a mall or college campus, the entity responsible for contracting for
18 solid waste hauling services is responsible for managing food scraps from the
19 independent businesses.
- 20 (2) Food scraps. – Inedible food, trimmings from the preparation of food, and
21 edible food that is not donated. Food scraps shall not include used cooking oil,
22 grease or food from residential sources, or any food subject to a recall or
23 seizure by the Department of Agriculture and Consumer Services or any other
24 State agency due to the presence of pathogens, including but not limited to:
25 Listeria Monocytogenes, confirmed Clostridium Botulinum, E. coli 0157:H7
26 and all salmonella in ready-to-eat foods.
- 27 (3) Organics recycler. – A facility, permitted by the Department, that recycles
28 food scraps through use as animal feed or a feed ingredient, rendering, land
29 application, composting, aerobic digestion, anaerobic digestion, fermentation,
30 or ethanol production under the law applicable to each type of organics
31 recycler. The proportion of the product created from food scraps by a
32 composting or digestion facility, including a wastewater treatment plant that
33 operates a digestion facility, or other combined-stream treatment system, must
34 be used in a beneficial manner as a soil amendment and shall not be disposed
35 of or incinerated.



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- 1 (4) Single location. – Contiguous property under common ownership, which may
2 include one or more buildings.
- 3 (5) Transfer facility. – A solid waste management facility permitted under this
4 Article, whether owned or operated by a private or public entity, other than a
5 recyclables handling and recovery facility, used oil facility, or a construction
6 and demolition debris processing or disposal facility, where solid waste is
7 received for the purpose of subsequent transfer to another solid waste
8 management facility for processing, treating, disposal, recovery, or further
9 transfer.

10 **§ 130A-310.82. Designated food scraps generator responsibilities.**

11 (a) Donation. – All designated food scraps generators shall separate their excess edible
12 food for donation for human consumption to the maximum extent practicable, and in accordance
13 with applicable laws and rules related to food donation.

14 (b) Diversion. – Except as provided in subsection (c) of this section, each designated food
15 scraps generator that is within twenty-five miles of an organics recycler, to the extent that the
16 recycler has capacity to accept all of such generator's food scraps based on the department's
17 yearly estimate of an organics recyclers' capacity pursuant to G.S. 130A-310.90(a), shall do all
18 of the following:

- 19 (1) Separate all food scraps remaining after meeting the requirements of
20 subsection (a) of this section from other solid waste.
- 21 (2) Ensure proper storage for food scraps on site which shall preclude such
22 materials from becoming odorous or attracting vectors, such as a container
23 that has a lid and a latch that keeps the lid closed and is resistant to tampering
24 by rodents or other wildlife and has sufficient capacity.
- 25 (3) Have information available and provide training for employees concerning the
26 proper methods to separate and store food scraps.
- 27 (4) Obtain a transporter that will deliver food scraps to an organics recycler,
28 self-haul its food scraps to an organics recycler, or provide for organics
29 recycling on-site via in vessel composting, aerobic or anaerobic digestion or
30 any other method of processing organic waste as the Department may specify
31 by rule, for some or all of the food waste it generates on its premises, provided
32 that the remainder is delivered to an organics recycler.

33 (c) Exception. – The provisions of subsection (b) of this section shall not apply to any
34 designated food scraps generator that has all of its food scraps processed in a composting facility
35 permitted by the Department to accept the kinds of food scraps generated by the designated food
36 scraps generator.

37 (d) Report. – All designated food scraps generators shall submit an annual report in an
38 electronic format to the Department on or before October 1, 2023, and annually thereafter. The
39 annual report shall summarize for the previous fiscal year the amount of edible food donated, the
40 amount of food scraps recycled, the organics recycler or recyclers and associated transporters
41 used, and any other information as required by the department.

42 (e) Waiver. – A designated food scraps generator may petition the Department for a
43 temporary waiver from some or all of the requirements of this Part. The petition shall include
44 evidence of undue hardship based on any of the following:

- 45 (1) The designated food scraps generator does not meet the two tons per week
46 threshold.
- 47 (2) The cost of processing organic waste is not reasonably competitive with the
48 cost of disposing of waste by landfill.
- 49 (3) The organics recycler does not have sufficient capacity, despite the
50 Department's calculation.
- 51 (4) Other unique circumstances of the designated food scraps generator.

1 A waiver shall be no longer than one year in duration provided, however, the Department
2 may renew such waiver.

3 **"§ 130A-310.84. Waste transporter responsibilities.**

4 (a) Any waste transporter that collects food scraps for recycling from a designated food
5 scraps generator shall dispose of the food scraps by either of the following:

6 (1) Delivery to a transfer facility that will deliver such food scraps to an organics
7 recycler unless the generator has received a temporary waiver under
8 G.S. 130A-310.82(e).

9 (2) Delivery directly to an organics recycler.

10 (b) Any waste transporter that collects food scraps from a designated food scraps
11 generator shall take all reasonable precautions to not deliver those food scraps to an incinerator
12 or a landfill nor commingle the material with any other solid waste unless such commingled
13 waste can be processed by an organics recycler or unless such generator has received a temporary
14 waiver under G.S. 130A-310.82(e).

15 **"§ 130A-310.86. Transfer facility.**

16 Any transfer facility that receives food scraps from a designated food scraps generator must
17 ensure that the food scraps are taken to an organics recycler unless such generator has received
18 a temporary waiver under G.S. 130A-310.82(e). A transfer facility shall take all reasonable
19 precautions to not commingle the material with any other solid waste unless such commingled
20 waste can be processed by an organics recycler.

21 **"§ 130A-310.88. Food scraps disposal prohibition.**

22 Incinerators and landfills permitted under this Article shall take all reasonable precautions to
23 not accept food scraps from designated food scraps generators required to send their food scraps
24 to an organics recycler as outlined under G.S. 130A-310.82 unless the designated food scraps
25 generator has received a temporary waiver under G.S. 130A-310.82(e).

26 **"§ 130A-310.90. Responsibilities of Department.**

27 (a) No later than January 1, 2022 and annually thereafter, the Department shall assess the
28 capacity of each organic recycler and notify designated food scraps generators if they are required
29 to comply with the provisions of G.S.130A-310.82(b) during the next fiscal year.

30 (b) The Department shall maintain on its website a list of all designated food scraps
31 generators, organics recyclers, and all waste transporters that manage source-separated organics.

32 (c) The Department shall develop and make available educational materials to assist
33 designated food scraps generators with compliance with this Part. The Department shall also
34 develop education materials on food waste minimization and encourage municipalities to
35 disseminate these materials both on their municipal websites and in any future mailings to their
36 residents.

37 (d) The Department shall regulate organics recyclers to ensure that their activities do not
38 impair water quality or otherwise harm human health and the environment.

39 **"§ 130A-310.92. Rules.**

40 The Department shall adopt rules or amend existing rules necessary to implement the
41 provisions of this Part, including, at a minimum, the following:

42 (1) The methodology the department will use to determine who is a designated
43 food scraps generator.

44 (2) The waiver process.

45 (3) Procedures to minimize odors and vectors.

46 (4) How designated food scraps generators shall comply with the provisions of
47 G.S. 130A-310.82(a) and G.S. 130A-310.82(b)(1).

48 **"§ 130A-310.94. Exclusions.**

49 (a) This Part shall not apply to any of the following:

50 (1) Hospitals, nursing homes, or adult care facilities.

1 (2) Local school administrative units, charter schools, regional schools, and other
2 elementary or secondary schools operated by the State Board of Education.
3 (b) Nothing in this section is intended to prevent the entities listed in subsection (a) of
4 this section from participating in the programs established by this Part on a voluntary basis.

5 **"§ 130A-310.96. Report.**

6 No later than October 1, 2023, and annually thereafter, the Department shall submit an annual
7 report to the Environmental Review Commission describing the operation of the food donation
8 and food scraps recycling program including the amount of edible food donated, the amount of
9 food scraps recycled, sample educational materials, and number of waivers provided.

10 **SECTION 2.(a)** G.S. 130A-309.10(f) is amended by adding a new subdivision to
11 read:

12 "(16) Food scraps, except as provided in Part 9 of this Article."

13 **SECTION 2.(b)** G.S. 130A-309.10(f1) is amended by adding a new subdivision to
14 read:

15 "(16) Food scraps, except as provided in Part 9 of this Article."

16 **SECTION 3.** Two hundred thousand dollars (\$200,000) in recurring funds and fifty
17 thousand dollars (\$50,000) in nonrecurring funds for the 2020-2021 fiscal year is appropriated
18 from the General Fund to the Department of Environmental Quality and allocated to the Division
19 of Waste Management and the Division of Environmental Assistance and Customer Service to
20 implement the provisions of this act. The Department may establish up to four FTE positions
21 with the funds appropriated by this section.

22 **SECTION 4.** The provisions of this act shall be severable and if any portion thereof
23 or the applicability thereof to any person or circumstance is held invalid, the remainder of this
24 act and the application shall not be affected by that holding.

25 **SECTION 5.** Section 1 of this act becomes effective January 1, 2022. Section 2 of
26 this act is effective July 1, 2022. Section 3 of this act becomes effective July 1, 2020. The
27 remainder of this act is effective when it becomes law.