

University of Colorado Law School

Colorado Law Scholarly Commons

Session Laws 1951-2000

Colorado Session Laws

1971

Amending Article 23 of Chapter 36, Colorado Revised Statutes 1963, as Amended, Concerning Solid Wastes Disposal Sites and Facilities

Colorado General Assembly

Follow this and additional works at: <https://scholar.law.colorado.edu/session-laws-1951-2000>

Recommended Citation

Colorado General Assembly, "Amending Article 23 of Chapter 36, Colorado Revised Statutes 1963, as Amended, Concerning Solid Wastes Disposal Sites and Facilities" (1971). *Session Laws 1951-2000*. 5268. <https://scholar.law.colorado.edu/session-laws-1951-2000/5268>

This Act is brought to you for free and open access by the Colorado Session Laws at Colorado Law Scholarly Commons. It has been accepted for inclusion in Session Laws 1951-2000 by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact rebecca.ciota@colorado.edu.

CHAPTER 103

COUNTY POWERS AND FUNCTIONSSOLID WASTE DISPOSAL SITES AND FACILITIES

Senate Bill No. 132. By Senators Shoemaker, Vollack, L. Fowler, and Strickland; also Representatives Schmidt, Fentress, and Pepper.

A N A C T

AMENDING ARTICLE 23 OF CHAPTER 36, COLORADO REVISED STATUTES 1963, AS AMENDED, CONCERNING SOLID WASTES DISPOSAL SITES AND FACILITIES.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. 36-23-1 (2), Colorado Revised Statutes 1963 (1967 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

36-23-1. Definitions. (2) "Solid wastes" means garbage, refuse, sludge of sewage disposal plants, and other discarded solid materials, including solid waste materials resulting from industrial, commercial, and from community activities, but shall not include agricultural wastes.

Section 2. 36-23-1 (3), Colorado Revised Statutes 1963 (1967 Supp.), is amended, and the said 36-23-1 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

36-23-1. Definitions. (3) "Department" means the state department of public health, referred to hereafter in this article as "the department".

(6) "Solid wastes disposal" means the collection, storage, treatment, utilization, processing, or final disposal of solid wastes.

(7) "Solid wastes disposal site and facility" means the location and facility at which the deposit and final treatment of solid wastes occur.

(8) "Transfer station" means a facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of collection vehicle and placed into another.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(9) "Recyclable materials" means a type of material that is subject to reuse or recycling.

(10) "Recycling operation" means that part of a solid wastes disposal facility or a part of a general disposal facility at which recyclable materials may be separated from other materials and for further processing.

Section 3. 36-23-2, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-2. Unlawful to operate site and facility without certificate of designation. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, on and after July 1, 1967, it shall be unlawful for any person to operate a solid waste WASTES disposal site ~~or~~ AND facility in the unincorporated portion of any county without first having obtained therefor a certificate of designation from the board of county commissioners of the county in which such site ~~or~~ AND facility is located.

(2) ANY SITE AND FACILITY FOR THE DISPOSAL OF MILL TAILINGS, METALLURGICAL SLAG, MINING WASTES, JUNK AUTOMOBILES OR PARTS THEREOF, OR SUSPENDED SOLIDS COLLECTED, TREATED, OR DISPOSED OF WITHIN A SANITARY SEWER SYSTEM, IN OPERATION IMMEDIATELY PRIOR TO JULY 1, 1971, SHALL HAVE UNTIL JULY 1, 1972, TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE AND THE RULES AND REGULATIONS ADOPTED BY THE DEPARTMENT.

Section 4. 36-23-3, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-3. Application for certificate. Any person desiring to operate a solid waste WASTES disposal site ~~or~~ AND facility within the unincorporated portion of any county shall make application to the board of county commissioners of the county in which such site ~~or~~ AND facility is or is proposed to be located for a certificate of designation. Such application shall be accompanied by a fee of twenty-five dollars which shall not be refundable, and shall set forth the location of the site ~~or~~ AND facility; the type of site ~~or~~ AND facility; the type of processing to be used, such as sanitary landfill, composting, or incineration; the hours of operation; the method of supervision; the rates to be charged, if any; and such other information as may be required by the board of county commissioners. THE APPLICATION SHALL ALSO CONTAIN SUCH ENGINEERING, GEOLOGICAL, HYDROLOGICAL, AND OPERATIONAL DATA AS MAY BE REQUIRED BY THE DEPARTMENT BY REGULATION. THE APPLICATION SHALL BE REFERRED TO THE DEPARTMENT FOR REVIEW AND FOR RECOMMENDATION AS TO APPROVAL OR DISAPPROVAL, WHICH SHALL BE BASED UPON CRITERIA ESTABLISHED BY THE STATE BOARD OF HEALTH, THE STATE WATER POLLUTION CONTROL COMMISSION, AND THE AIR POLLUTION CONTROL COMMISSION.

Section 5. 36-23-4, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-4. Factors to be considered. (1) (a) In considering an ap-

plication for a certificate of designation, the board of county commissioners shall take into account:

(b) The effect that the SOLID WASTES DISPOSAL site ~~or~~ AND facility will have on the surrounding property, taking into consideration the types of processing to be used, surrounding property uses and values, and wind and climatic conditions.

(c) The convenience and accessibility of the SOLID WASTES DISPOSAL site ~~or~~ AND facility to potential users.

(d) The ability of the applicant to comply with the health standards and operating procedures provided for in this article and such rules and regulations as may be prescribed by the department ~~or by local health agencies~~.

(e) RECOMMENDATIONS BY LOCAL HEALTH DEPARTMENTS.

(2) (a) Except as provided in this article, designation of approved solid waste WASTES disposal sites ~~or~~ AND facilities shall be discretionary with the board of county commissioners, subject to judicial review by the district court of appropriate jurisdiction.

(b) PRIOR TO THE ISSUANCE OF A CERTIFICATE OF DESIGNATION, THE BOARD OF COUNTY COMMISSIONERS SHALL REQUIRE THAT THE REPORT WHICH MUST BE SUBMITTED BY THE APPLICANT UNDER SECTION 36-23-3 SHALL HAVE BEEN REVIEWED AND A RECOMMENDATION AS TO APPROVAL OR DISAPPROVAL MADE BY THE DEPARTMENT AND SHALL BE SATISFIED THAT THE PROPOSED SOLID WASTES DISPOSAL SITE AND FACILITY CONFORMS TO THE COMPREHENSIVE COUNTY LAND USE PLAN, IF ANY. THE APPLICATION, REPORT OF THE DEPARTMENT, COMPREHENSIVE LAND USE PLAN, AND OTHER PERTINENT INFORMATION SHALL BE PRESENTED TO THE BOARD OF COUNTY COMMISSIONERS AT A PUBLIC HEARING TO BE HELD AFTER NOTICE. SUCH NOTICE SHALL CONTAIN THE TIME AND PLACE OF THE HEARING AND SHALL STATE THAT THE MATTER TO BE CONSIDERED IS THE APPLICANT'S PROPOSAL FOR A SOLID WASTES DISPOSAL SITE AND FACILITY. THE NOTICE SHALL BE PUBLISHED IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PROPOSED SOLID WASTES DISPOSAL SITE AND FACILITY IS LOCATED AT LEAST TEN BUT NO MORE THAN THIRTY DAYS PRIOR TO THE DATE OF THE HEARING.

Section 6. 36-23-5, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-5. Licenses. If the board of county commissioners deems that a certificate of designation should be granted to the applicant, then it shall issue the certificate, and such certificate shall be displayed in a prominent place at the site ~~or~~ AND facility. THE BOARD OF COUNTY COMMISSIONERS SHALL NOT ISSUE A CERTIFICATE OF DESIGNATION WHERE THE DEPARTMENT HAS RECOMMENDED DISAPPROVAL PURSUANT TO SECTION 36-23-3.

Section 7. 36-23-6, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-6. Private disposal prohibited — when. No private dumping of solid wastes shall be made on any property within the unincorporated portion of any county except on or at an approved site ~~or~~ AND facility; but private dumping of ONE'S OWN solid wastes on one's own property shall not be subject to the provisions of this article as long as it does not constitute a public nuisance, endangering the health, safety, and welfare of others AND SO LONG AS SUCH DUMPING IS IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE DEPARTMENT.

Section 8. 36-23-7, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-7. Designation of exclusive sites and facilities. The governing body of any city, city and county, or incorporated town may by ordinance designate and approve one or more SOLID WASTES DISPOSAL sites ~~or~~ AND facilities, either within or without its corporate limits, if designated and approved by the board of county commissioners, as its exclusive solid waste WASTES disposal site sites, facility, ~~or~~ AND FACILITY OR SITES AND facilities, and thereafter each such site ~~or~~ AND facility shall be used by such city, city and county, or town for the disposal of its solid wastes; but prior to any such designation and approval, such governing body shall hold a public hearing to review the disposal method or methods to be used and the fees to be charged, if any.

Section 9. 36-23-8 (1) and (2), Colorado Revised Statutes 1963 (1967 Supp.), are amended to read:

36-23-8. Contracts with governmental units authorized. (1) An approved solid waste WASTES disposal site ~~or~~ AND facility may be operated by any person pursuant to contract with any governmental unit.

(2) Any city, city and county, county, or incorporated town acting by itself or in association with any other such governmental unit or units may establish and operate an approved site ~~or~~ AND facility under such terms and conditions as may be approved by the governing bodies of the governmental units involved. In the event such site ~~or~~ AND facility is not operated by the governmental unit involved, any contract to operate such a site ~~or~~ AND facility shall be awarded on a competitive bid basis if there is more than one applicant for a contract to operate such site ~~or~~ AND facility.

Section 10. 36-23-9, Colorado Revised Statutes 1963 (1967 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

36-23-9. Department to promulgate rules and regulations. (1) (a) The department shall promulgate rules and regulations for the engineering design and operation of solid wastes disposal sites and facilities, which may include:

(b) The establishment of engineering design criteria applicable, but not limited, to protection of surface and subsurface waters, suitable soil characteristics, distance from solid wastes generation centers,

access routes, distance from water wells, disposal facility on-site traffic control patterns, insect and rodent control, methods of solid wastes compaction in the disposal fill, confinement of windblown debris, recycling operations, fire prevention, and final closure of the compacted fill.

(c) The establishment of criteria for solid wastes disposal sites and facilities which will place into operation the engineering design for such disposal sites and facilities.

Section 11. 36-23-10 (1) (e) and (g), Colorado Revised Statutes 1963 (1967 Supp.), are REPEALED AND REENACTED, WITH AMENDMENTS, to read:

36-23-10. Minimum standards. (1) (e) A site and facility operated as a sanitary landfill shall provide means of finally disposing of solid wastes on land in a manner to minimize nuisance conditions such as odors, windblown debris, insects, rodents, smoke, and shall provide compacted fill material, adequate cover with suitable material and surface drainage designed to prevent ponding and water and wind erosion, prevent water and air pollution and, upon being filled, shall be left in a condition of orderliness, good esthetic appearance and capable of blending with the surrounding area. In the operation of such a site and facility, the solid wastes shall be distributed in the smallest area consistent with handling traffic to be unloaded, shall be placed in the most dense volume practicable using moisture and compaction or other method approved by the department, shall be fire, insect, and rodent resistant through the application of an adequate layer on inert material at regular intervals and shall have a minimum of windblown debris which shall be collected regularly and placed into the fill.

(g) Solid wastes deposited at any site or facility shall not be burned, provided, however, that in extreme emergencies resulting in the generation of large quantities of combustible materials, authorization for burning under controlled conditions may be given by the department.

Section 12. 36-23-12, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-12. Departments to render assistance. The department and local health departments shall render technical advice and services to owners and operators of solid waste WASTES disposal sites and facilities AND TO MUNICIPALITIES AND COUNTIES in order to assure that appropriate measures are being taken to protect the public health, safety, and welfare. IN ADDITION, THE DEPARTMENT SHALL HAVE THE DUTY TO COORDINATE THE SOLID WASTES PROGRAM UNDER THIS ARTICLE WITH ALL OTHER PROGRAMS WITHIN THE DEPARTMENT AND WITH THE OTHER AGENCIES OF STATE AND LOCAL GOVERNMENT WHICH ARE CONCERNED WITH SOLID WASTES DISPOSAL.

Section 13. 36-23-13, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-13. Revocation of certificate. The board of county commissioners, after reasonable notice and public hearing, may SHALL temporarily suspend or revoke a certificate of designation that has been

granted by it for failure of a site ~~or~~ AND facility to COMPLY WITH ALL APPLICABLE LAWS, RESOLUTIONS, AND ORDINANCES OR TO comply with the provisions of this article or any rule or regulation adopted pursuant thereto.

Section 14. 36-23-14, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-14. Facilities deemed public nuisance — when. Any solid waste WASTES disposal site ~~or~~ AND facility FOUND TO BE ABANDONED, OR that is operated or maintained in a manner so as to violate any of the provisions of this article or any rule or regulation adopted pursuant thereto shall be deemed a public nuisance, and such violation may be enjoined by a district court of competent jurisdiction in an action brought by the department, ~~or~~ by the board of county commissioners of the county wherein the violation occurred, OR THE GOVERNING BODY OF THE MUNICIPALITY WHEREIN THE VIOLATION OCCURRED.

Section 15. 36-23-15, Colorado Revised Statutes 1963 (1967 Supp.), is amended to read:

36-23-15. Violation — penalty. Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Nothing in this article shall preclude or preempt a city, a city and county, or an incorporated town from enforcement of its local ordinances. EACH DAY OF VIOLATION SHALL BE DEEMED A SEPARATE OFFENSE UNDER THIS SECTION.

Section 16. 36-23-16, Colorado Revised Statutes 1963 (1967 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

36-23-16. County solid wastes disposal site and facility fund — tax. Any county is authorized to establish a county solid wastes disposal site and facility fund. The board of county commissioners of such county may levy a solid wastes disposal site and facility tax, in addition to any other tax authorized by law, on any of the taxable property within said county, the proceeds of which shall be deposited to the credit of said fund and appropriated to pay the cost of land, labor, equipment, and services needed in the operation of solid wastes disposal sites and facilities. Any county is also authorized, after a public hearing, to fix, modify, and collect service charges from users of solid wastes disposal sites and facilities for the purpose of financing the operations at those sites and facilities.

Section 17. **Repeal.** 36-23-11 and 36-23-17, Colorado Revised Statutes 1963 (1967 Supp.), are repealed.

Section 18. **Effective date.** This act shall take effect July 1, 1971.

Section 19. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 24, 1971