

§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited.

(a) No beverage shall be sold or offered for sale within the State in a beverage container designed and constructed so that the container is opened by detaching a metal ring or tab.

(b) No person shall distribute, sell, or offer for sale in this State, any product packaged in a container or packing material manufactured with fully halogenated chlorofluorocarbons (CFC). Producers of containers or packing material manufactured with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials that are environmentally compatible.

(c) (1) No plastic bag shall be provided at any retail outlet to any retail customer to use for the purpose of carrying items purchased by that customer unless the bag is composed of material that is recyclable.

(2) It is the goal of the State that at least twenty-five percent (25%) of the plastic bags provided at retail outlets in the State to retail customers for carrying items purchased by the customer be recycled.

(d) (1) No person shall distribute, sell, or offer for sale in this State any polystyrene foam product that is to be used in conjunction with food for human consumption unless the product is composed of material that is recyclable.

(2) Repealed by Session Laws 1995, c. 321, s. 1.

(e) No person shall distribute, sell, or offer for sale in this State any rigid plastic container, including a plastic beverage container, unless the container has a molded label indicating the plastic resin used to produce the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangulated arrows. The three arrows shall form an equilateral triangle with the common point of each line forming each angle of the triangle at the midpoint of each arrow and rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the arrowhead from the base of the adjacent arrow. The triangle formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The label shall appear on or near the bottom of the container and be clearly visible. A container having a capacity of less than eight fluid ounces or more than five gallons is exempt from the requirements of this subsection. The numbers and letters shall be as follows:

(1) For polyethylene terephthalate, the letters "PETE" and the number 1.

(2) For high density polyethylene, the letters "HDPE" and the number 2.

(3) For vinyl, the letter "V" and the number 3.

(4) For low density polyethylene, the letters "LDPE" and the number 4.

(5) For polypropylene, the letters "PP" and the number 5.

(6) For polystyrene, the letters "PS" and the number 6.

(7) For any other, the letters "OTHER" and the number 7.

(e1) **(See Editor's note for applicability)** No person shall distribute, sell, or offer for sale in this State any rigid plastic container, including a plastic beverage container labeled "degradable," "biodegradable," "compostable," or other words suggesting the container will biodegrade unless (i) the container complies with the requirements of subsection (e) of this section and (ii) the container includes a label with the statement "Not Recyclable, Do Not Recycle" in print of the same color, contrast, font, and size as the language suggesting the container will biodegrade.

(f) No person shall knowingly dispose of the following solid wastes in landfills:

(1) Repealed by Session Laws 1991, c. 375, s. 1.

(2) Used oil.

- (3) Yard trash, except in landfills approved for the disposal of yard trash under rules adopted by the Commission. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.
- (4) White goods.
- (5) Antifreeze (ethylene glycol).
- (6) Aluminum cans.
- (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition on disposal of whole scrap tires in landfills applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.
- (8) Lead-acid batteries, as provided in G.S. 130A-309.70.
- (9) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.
- (10) Motor vehicle oil filters.
- (11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The prohibition on disposal of recyclable rigid plastic containers in landfills does not apply to rigid plastic containers that are intended for use in the sale or distribution of motor oil or pesticides.
- (12) Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris.
- (13) Oyster shells.
- (14) Discarded computer equipment, as defined in G.S. 130A-309.131.
- (15) Discarded televisions, as defined in G.S. 130A-309.131.

(f1) No person shall knowingly dispose of the following solid wastes by incineration in an incinerator for which a permit is required under this Article:

- (1) Antifreeze (ethylene glycol) used solely in motor vehicles.
- (2) Aluminum cans.
- (3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
- (4) White goods.
- (5) Lead-acid batteries, as provided in G.S. 130A-309.70.
- (6) Repealed by Session Laws 2011-394, s. 4, effective July 1, 2011.
- (7) Discarded computer equipment, as defined in G.S. 130A-309.131.
- (8) Discarded televisions, as defined in G.S. 130A-309.131.

(f2) Subsections (f1) and (f3) of this section shall not apply to solid waste incinerated in an incinerator solely owned and operated by the generator of the solid waste. Subsection (f1) of this section shall not apply to antifreeze (ethylene glycol) that cannot be recycled or reclaimed to make it usable as antifreeze in a motor vehicle.

(f3) Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall not knowingly dispose of beverage containers that are required to be recycled under G.S. 18B-1006.1 in landfills or by incineration in an incinerator for which a permit is required under this Article.

(g) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.

(h) The accidental or occasional disposal of small amounts of prohibited solid waste by landfill shall not be construed as a violation of subsection (f) or (f3) of this section.

(i) The accidental or occasional disposal of small amounts of prohibited solid waste by incineration shall not be construed as a violation of subsection (f1) or (f3) of this section if the Department has approved a plan for the incinerator as provided in subsection (j) of this section or if the incinerator is exempt from subsection (j) of this section.

(j) The Department may issue a permit pursuant to this Article for an incinerator that is subject to subsection (f1) of this section only if the applicant for the permit has a plan approved by the Department pursuant to this subsection. The applicant shall file the plan at the time of the application for the permit. The Department shall approve a plan only if it complies with the requirements of this subsection. The plan shall provide for the implementation of a program to prevent the incineration of the solid waste listed in subsections (f1) and (f3) of this section. The program shall include the random visual inspection prior to incineration of at least ten percent (10%) of the solid waste to be incinerated. The program shall also provide for the retention of the records of the random visual inspections and the training of personnel to recognize the solid waste listed in subsections (f1) and (f3) of this section. If a random visual inspection discovers solid waste that may not be incinerated pursuant to subsections (f1) and (f3) of this section, the program shall provide that the operator of the incinerator shall dispose of the solid waste in accordance with applicable federal and State laws, regulations, and rules. This subsection does not apply to an incinerator that disposes only of medical waste.

(k) A county or city may petition the Department for a waiver from the prohibition on disposal of a material described in subdivisions (9), (10), (11), (12), and (13) of subsection (f) of this section and subsection (f3) of this section in a landfill based on a showing that prohibiting the disposal of the material would constitute an economic hardship.

(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision (13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill.

(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined. (1989, c. 784, s. 2; 1991, c. 23, s. 1; c. 375, s. 1; 1991 (Reg. Sess., 1992), c. 932, ss. 1, 2; 1993, c. 290, s. 1; 1995, c. 321, s. 1; c. 504, s. 9; 1995 (Reg. Sess., 1996), c. 594, s. 17; 2001-440, ss. 3.1, 3.2; 2005-348, s. 3; 2005-362, ss. 2, 3; 2006-226, s. 24(a); 2006-264, ss. 98.5(a), (c); 2007-550, ss. 16.3, 16.4; 2008-198, s. 11.4; 2008-208, ss. 3, 4, 7; 2009-499, s. 1; 2009-484, s. 16(a), (b); 2009-550, s. 10(a), (b); 2010-67, ss. 1(a)-(d), 4(a), (b); 2010-142, s. 10; 2010-180, s. 14(b); 2011-394, s. 4; 2012-194, s. 28; 2012-201, s. 3; 2013-74, s. 1.)