

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 594**

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H. P. 466

House of Representatives, February 4, 1971

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Marsh of Hampden.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT** Relating to the Management of Solid Waste.

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Be it enacted by the People of the State of Maine, as follows:

**R. S., T. 22, part 7, additional.** Title 22 of the Revised Statutes is amended by adding a new part 7, to read as follows:

**PART 7**

**WASTE MANAGEMENT**

**CHAPTER 1401**

**SOLID WASTE MANAGEMENT**

§ 4861. Title

This chapter shall be known and may be cited as the "Maine Solid Waste Management Act."

§ 4862. Definitions

The following words shall have the following meaning unless the context in which they are used clearly shows a different meaning:

1. Area-wide plan. "Area-wide plan" means regional plans prepared by a planning district, regional planning commission, council of government, or county, to present alternatives for providing efficient and economic approved solid waste management practices.

2. Department. "Department" means the Department of Health and Welfare.

3. Director. "Director" means the duly qualified and appointed person in charge of the department.

4. Facility. "Facility" means any land area or structure used for the storage, salvage, processing or reduction of solid waste, except normal farm wastes.

5. Open burning. "Open burning" means uncontrolled burning of wastes in the open or in an open dump.

6. Open dump. "Open dump" means a disposal site at which solid waste is placed in uncovered piles.

7. Person. "Person" means all individuals, partnerships, associations, corporations, both public and private, and all other entities recognized by law within the State of Maine.

8. Region. "Region" means an area within which solid waste management services are performed by an administrative agency, such as a utility district, a council of government, a county or a person.

9. Solid waste. "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing.

10. Solid waste management. "Solid waste management" means the purposeful, systematic control of the storage, collection, transportation, processing, salvaging and disposal of solid waste.

#### § 4863. Solid Waste Advisory Committee

The Keep Maine Scenic Committee shall be the Solid Waste Advisory Committee. The Governor may make future appointments from among citizens representing the private refuse removal industry, engineering profession, local government, State Government, state university, agriculture, industry and public utilities.

Additional powers and duties of the committee under this chapter shall be:

1. Rules and regulations. Recommend to the department new rules and regulations governing solid waste management within the State;

2. Review. Review proposed and existing rules and regulations and make recommendations for their revision or adoption, or both;

3. Research. Recommend research in solid waste management, emphasizing methods of collection, volume reduction and resource recovery;

4. Uses. Recommend uses for completed sanitary landfill sites;

5. Utilization. Recommend utilization of solid wastes through recycling;

6. Legislation. Recommend legislation directed to the efficient management of solid wastes within the State;

7. Standards. Recommend standards for sanitary landfill sites and their location;

8. **Activities.** Recommend activities and actively participate in a public relations program to support state solid waste management goals.

§ 4864. Further powers and duties

The department shall have the following powers and duties:

1. **Administration.** Administer the solid waste management program pursuant to this chapter;

2. **Rules and regulations.** Promulgate, revise, revoke and enforce reasonable rules and regulations governing solid waste management in the State;

3. **Cooperation.** Cooperate with appropriate federal, state, regional, county and local units of government and with appropriate private organizations in carrying out the duties of this chapter;

4. **Gifts.** Accept gifts or grants from private or public sources, including the Federal Government, if such should be desirable in program implementation;

5. **Management plan.** Develop a state-wide solid waste management plan in cooperation with local governments and the State Planning Office with emphasis given to area-wide planning;

6. **Guidelines.** Establish guidelines for effective solid waste management systems;

7. **Technical assistance.** Provide technical assistance, on request, to political subdivision or other appropriate groups within the State;

8. **Permits.** Issue such permits and orders and conduct such inspections as may be necessary to implement this chapter and the rules, regulations and standards adopted pursuant to this chapter;

9. **Forms.** Prepare the necessary application forms for the required permits that shall require sufficient information to identify the applicant, its business address, its principal officers, the type of waste being processed and their final disposal;

10. **Notices.** Issue notices to permit holders for violations of the rules and regulations of the department, the provisions of this chapter or the laws of the State. Such notice shall set forth the violations to be corrected and the time in which such violations shall be corrected.

§ 4865. Prohibited acts

It shall be unlawful for any person to:

1. **Open dumps.** Establish a new open dump contrary to this chapter;

2. **Burning.** Burn solid wastes in this State contrary to this chapter or the laws of this State after December 31, 1971, except that existing municipal open dumps shall be permitted to continue the practice until December 31, 1973, except that:

A. The time limit may be extended for a period not to exceed 2 years, providing the extension of time does not interfere with implementation of area-wide plans and the subject municipality shows good cause and declares its intent in writing to the department by July 1, 1972 that said municipality will participate in an area-wide plan approved by the department;

B. If a hearing is requested, a hearing shall be held pursuant to this section and the department shall hold such hearing within 30 days of such determination and shall cause notice of the date, time and place thereof to be given by registered mail at his address to the person requesting the extension. In addition the department shall give such notice to some newspaper of general circulation in the proposed locality, or if none, to the state paper for publication for 5 consecutive days. The date of the first publication shall be at least 10 days and the last publication shall be at least 3 days before the date of the hearing.

3. Operation of open dump. Operate an open dump or to place any solid waste upon any lands or in any waters of this State, contrary to this chapter or the laws of the State. Any natural person, the owner or lawful occupant of premises he occupies, may deposit solid wastes from normal or ordinary household activities upon such lands so long as there is no public health hazard or nuisance created thereby and so long as such wastes are not visible from any public road or waterway from normal surface travel.

4. Disposal facility. Construct, alter or operate a solid waste processing or disposal facility or area of a solid waste management system without a permit from the department or in violation of the rules, regulations, standards or orders of the department.

5. Public nuisance. Store, collect, transport, process or dispose of solid waste contrary to the rules, regulations, standards or orders of the department or in such manner as to create a public nuisance or health hazard.

6. Inspection. Refuse or hinder entry and inspection by an employee or agent of the department after such employee or agent identifies himself and gives the nature of his purpose.

#### § 4866. Permits required for facility or disposal site

1. Permits. No solid waste facility or disposal site shall be operated within this State until a permit is issued by the department for each facility or disposal site. All persons operating existing facilities and disposal sites shall comply with the permit requirements of this chapter by December 31, 1973. No permit may be transferred without the prior written consent of the department.

2. —fee. Each permit application shall be accompanied by a nonreturnable fee of \$5 per acre of disposal site and a fee of \$25 per disposal facility. Each permit issued shall be valid for a period of one year from its date of issue unless suspended or revoked by the department. All political subdi-

visions including regional activities authorized in this chapter or their authorized representatives are exempted from the fee provisions of this section.

3. —renewal. Each permit holder shall apply for renewal of each permit held, upon forms provided by the department, not more than 90 days prior to the expiration date of each permit and shall tender with the application a nonreturnable fee of \$2 per acre and a fee of \$10 per disposal facility, such fees to be paid into the General Fund. All political subdivisions, including regional activities authorized in this chapter or their authorized representatives are exempted from this subsection.

4. —plans. Plans, designs and relevant data, including surface and groundwater supplies and zoning board approval, for the construction or alteration of solid waste processing or disposal areas shall be prepared by a registered professional engineer and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area.

5. —suspension. When the department, as provided in this chapter, shall determine that the solid waste processing or disposal facility or area is, or has been, conducted in violation of this chapter or the rules, regulations or standards adopted pursuant to this chapter, or is relating to a public nuisance and believes a permit should be suspended or revoked, it shall file a statement of complaint with the Administrative Hearing Commissioner, as provided in Title 5, chapters 301 to 307. A person aggrieved by the refusal of the department to issue a permit may file a statement of complaint with the Administrative Hearing Commissioner.

#### § 4867. Powers and duties of the municipality

A municipality has the following powers and duties:

1. Disposal. Each municipality shall provide for disposal of community solid wastes, including but not limited to rubbish, garbage, septic tank sludge, sewage treatment plant sludge, junk automobiles, brush and other municipal wastes.

2. Ordinances. Each municipality may adopt ordinances, regulations and standards for solid waste management practices which are more stringent than the rules, regulations, standards and procedures adopted by the department for storage, collection, transportation, processing and disposal of solid wastes.

3. Contracts. Municipalities may contract with any person to carry out all or any of their responsibilities for the collection, transportation, processing and disposal of solid wastes.

4. —collection. Municipalities may contract with a legislative approved region to provide collection or disposal service.

5. Survey. Each municipality or its authorized regional representative, county, region, regional planning district, council of government or other regional group shall survey before December 31, 1973, the solid waste man-

agement within its boundaries and prepare a solid waste management plan. The department shall review the plans at appropriate intervals.

#### § 4868. Regional waste management

The county commissioners of each county may recommend to the Legislature the formation of solid waste management regions, based upon population, area, waste generation and other pertinent factors. These regions may be multi-county areas. The Legislature may approve such solid waste management regions whose powers shall include but not be limited to:

1. Plans. Providing area-wide solid waste management plans for each region;
2. Services. Establishing solid waste management services within each region and submitting appropriations for this service in the biennial budget;
3. Contracts. Entering into exclusive contracts with private persons for collection or disposal service in each region. Each such contract term shall be for up to 6 years;
4. Charges. Establishing and modifying service charges based on the type and amount of waste generated;
5. Bond. Requiring a performance bond of private persons, such bond to be not less than the average annual sum paid over the contract term;
6. Pro rata charge. Establishing an equitable pro rata charge to persons not directly within the tax structure of the county based on waste volume, population or any other acceptable formula.

#### § 4869. Local ordinances

No local ordinance shall prevent or hinder regional solid waste management or implementation of area-wide plans by preventing transportation or facility location with a municipality. All facility locations must be approved under Title 38, chapter 3, subchapter I, article 6, regardless of the area requirements provided by Title 38, section 482.

#### § 4870. Violations

Any person failing to comply with any section of this chapter or the rules and regulations promulgated under this chapter shall be punished by a fine of not less than \$20 nor more than \$2,000. Each day of continued violation shall be deemed a separate offense. The court, with or without such a fine, may order compliance with this chapter and the rules, regulations and standards set by the department.

#### § 4871. Planning assistance

The department shall provide financial assistance to municipal, regional and county governments to supplement the cost of preparing an area-wide Solid Waste Management Plan, and is authorized to prepare the necessary application forms. The department is authorized to establish the priority of

**grant awards based on need. Such grants shall not exceed 10% of the cost of the plan for a municipality, a regional agency or a county.**

#### STATEMENT OF FACT

The purpose of this Act is to recognize the problems created by existing poor solid waste management practices; to protect human health, minimize environmental pollution, control scenic blight, and prevent related economic loss; and to assign primary responsibility for solid waste management to a single state agency.

The open dump can no longer be tolerated as an alternative to solid waste disposal. There are over 350 municipal open dumps in Maine and untold private ones. The public disposal sites create acknowledged health hazards by supporting large vector populations; 98% contribute to air pollution, and 50% contribute to pollution of ground and surface waters by direct dumping, leaching or improper drainage conditions. Poor solid waste management practices endanger human health, lower land values, stifle orderly community growth, and are a detriment to the scenic beauty of the State.

The methods by which we manage our solid wastes are not efficient nor are they economic. Through area-wide management of our solid wastes and use of modern technology and techniques of engineering, planning and modeling, the health hazards, environmental abuse and scenic blight can be minimized. Other benefits to the citizens of Maine will be improved service at no additional cost, since the cost of solid waste management to Maine citizens is already high.