

# MAINE STATE LEGISLATURE

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New Draft of H. P. 1497, L. D. 1940  
FIRST SPECIAL SESSION

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 2046**

H. P. 1587

House of Representatives, February 25, 1972

Reported by Mrs. Brown from Committee on Natural Resources and  
printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

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

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

**Sec. 1. R. S., T. 5, § 2301, sub-§ 1, ¶ H, additional.** Subsection 1 of section 2301 of Title 5 of the Revised Statutes, as amended, is further amended by adding a new paragraph H, to read as follows:

**H. Control of solid waste management.**

**Sec. 2. 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 when used in this chapter shall have the following meanings unless the context, in which they are used, clearly shows a different meaning:

1. Commissioner. "Commissioner" means the Commissioner of the Department of Health and Welfare.

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

3. Dump. "Dump" means a disposal site at which solid waste is placed in piles, whether covered or uncovered and whether used for land fill or some other purpose.

4. Open burn. "Open burn" or "open burning" means the combustion of any material in the open ambient air, without being completely enclosed, where the products of combustion are emitted directly to the ambient air without passing through a chimney, stack, duct or other structure.

5. Person. "Person" means an individual, firm, corporation, partnership, municipality, quasi-municipal corporation, state agency or any other legal entity.

6. Regional program. "Regional program" means an unified program of solid waste management within any area of the State encompassing more than one municipality, which program is administered by a solid waste management district established pursuant to section 4867 or any other municipal, quasi-municipal or governmental unit or any combination thereof.

7. Solid waste. "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be freeflowing, including by way of example and not by limitation, rubbish, garbage, scrap materials, junk or refuse of any kind.

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

9. Stump dump. "Stump dump" means a solid waste disposal site at which only inert fill material and landscape refuse, excluding solid waste, is deposited.

10. Waste disposal facility. "Waste disposal facility" means any land area or structure or combination of land area and structures, including dumps, used for the storing, salvaging, processing, reducing or disposing of solid wastes, except normal farm wastes.

#### § 4863. Solid Waste Advisory Committee

For purposes of this chapter, the "Keep Maine Scenic Committee" shall be designated as the "Solid Waste Advisory Committee," and shall have the following powers and duties:

1. Rules and regulations. Recommend to the department rules and regulations governing the operation of waste disposal facilities and solid waste management within the State;

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

3. **Uses.** Recommend uses for completed land fill sites;
4. **Legislation.** Recommend legislation directed to the efficient management of solid waste within the State;
5. **Promotion.** Promote efficient, economical and responsible solid waste management.

§ 4864. Department; powers and duties

The Department of Health and Welfare shall have the following powers and duties:

1. **Administration.** To develop and administer state-wide solid waste management programs in cooperation with state and local governments and agencies with emphasis on regional planning.
2. **Rules and regulations.** Pursuant to the Administrative Code, to establish, amend and enforce reasonable rules and regulations governing solid waste management, including the operation and location of waste disposal facilities. Such regulations shall be designed to promote efficient, economical and systematic solid waste management and shall be based on a consideration of economic, environmental, public health and safety considerations.
3. **Intergovernmental cooperation.** Cooperate with appropriate federal, state, regional, county and municipal governments and agencies and with such other persons as may be necessary to carry out the purposes of this chapter;
4. **Gifts.** Accept gifts and grants from private and public sources, including the Federal Government, which funds shall be used for the purposes set forth in this chapter;
5. **Guidelines.** Establish guidelines for effective solid waste management systems and provide technical assistance to state, regional, county and municipal governments and regional programs.

§ 4865. Prohibited acts

It shall be unlawful for any person to:

1. **Waste disposal facilities.** Establish, construct, alter or operate any waste disposal facility contrary to the regulations promulgated by the department;
2. **Disposal; generally.** Store, collect, transport, process or dispose of solid waste contrary to regulations promulgated by the department;
3. **Burning.** Burn solid waste in this State, except in compliance with applicable statutes and regulations of the Environmental Improvement Commission, provided that any municipality currently disposing of solid waste by means of open burning may continue open burning until July 1, 1974. Any municipality which desires to continue open burning beyond July 1, 1974 shall, on or before July 1, 1973, apply to the department for a permit to continue open burning and shall furnish proof of its participation or intent to

participate in a regional program. Within 30 days of receipt of an application, the commissioner shall schedule a public hearing thereon and shall cause notice of the date, time and place thereof to be given to the municipal officers by certified mail, return receipt requested. The commissioner shall cause public notice of such date, time and place to be given by publication in some newspaper of general circulation in the municipality for which application was made at least once a week for 2 successive weeks, the date of the last publication to be at least 3 days before the date of the hearing.

If, after hearing, the commissioner determines that the municipality is participating in a regional program or the formation of such program and that the continued open burning will be consistent with such regional program or other waste disposal plan and will not otherwise violate applicable statutes or regulations, he may grant the permit for such period as he finds necessary for the municipality to comply with such plans, but in no event later than July 1, 1975. The commissioner may impose such reasonable terms and conditions upon the exercise of such permit as he deems necessary to assure compliance with the regulations of the department.

#### § 4866. Power and duties of the municipality

A municipality has the following powers and duties:

1. Disposal. Each municipality shall provide a waste disposal facility for domestic and commercial solid waste generated within the municipality, except industrial wastes and septic tank and sewage treatment plant sludge, facilities for which may be provided at the option of the municipality.

2. Ordinances. Except as provided in section 4868, each municipality may adopt ordinances, regulations or other standards relating to solid waste management which are more stringent than the rules and regulations adopted by the department pursuant to this chapter.

3. Contracts. Municipalities may contract with any person for the collection, transportation, storage, processing, salvaging or disposal of solid wastes.

4. Survey. Each municipality shall survey the methods of solid waste management within its boundaries and prepare a solid waste management plan, such survey and plan to be submitted to the department for its review and approval on or before July 1, 1973.

#### § 4867. Solid waste management districts

1. Districts. The Legislature may, as it deems necessary, establish solid waste management districts for the purpose of administering solid waste management programs within any municipality, municipalities, or portions thereof, or unorganized territory, or any combination thereof.

2. Directors. The Legislature, in creating any solid waste management district, shall establish a board of directors of such district which shall have the authority to manage the affairs of the district and exercise all the powers and duties hereunder. Such directors shall be appointed in a manner and for such term as the Legislature may subsequently specify.

3. Powers and duties. Solid waste management districts shall have the power to:

A. Provide for its own organizational procedures and to adopt rules and regulations governing its meetings and transactions except that a majority vote of its directors shall be required in every action taken by the district;

B. Prepare solid waste management plans for the district;

C. Establish and provide solid waste management services within each district;

D. Enter into contracts with any person for storage, collection, transportation, processing, salvaging or disposal of solid wastes within each district and for such other purposes as may be necessary to carry out the duties and powers of the district, upon such terms and for such periods of time as the district shall deem necessary;

E. Establish, modify and collect such charges and fees from persons within the district to whom solid waste management services are supplied, based upon the type and amount of waste generated by such persons and such other factors as the district may deem relevant.

F. Purchase, lease, accept and otherwise acquire, hold, use and manage, sell, assign, give, transfer and otherwise dispose of donations, services, grants, property, real, personal or mixed, tangible or intangible, and interest therein from or to any person or legal or governmental entity; and

G. Sue and be sued.

#### § 4868. Local ordinances

No municipality may enact any ordinance or regulation which shall prevent or hinder the operation of any regional program or which may prevent the transportation of solid wastes through or the location of a waste disposal facility within the municipality. All waste disposal facilities shall be subject to the Revised Statutes, Title 38, Article 6, chapter 3, subchapter II, regardless of the size or land area occupied by such facility.

#### § 4869. Violations

Any person violating any provision of this chapter or the rules or regulations promulgated thereunder shall be punished by a fine of not more than \$500 for each day of such violation. The Superior Court shall have jurisdiction to enjoin any violation of this chapter or the rules or regulations promulgated thereunder.

#### § 4870. Exceptions

Stump dumps and automobile graveyards and junkyards as defined in Title 30, section 2451-B are exempt from the provisions of this chapter.

Sec. 3. R. S., T. 38, § 421, amended. The last paragraph of section 421 of Title 38 of the Revised Statutes, as enacted by chapter 440 of the public laws of 1971, is amended to read as follows:

Any solid waste disposal area whose boundary is closer than 300 feet to any classified body of water shall be discontinued in conformity with this section prior to December 1, 1973; **except that the commission may issue permits for the use of a solid waste disposal area whose boundary is closer to 300 feet to a classified body of water if it determines :**

1. **Natural conditions.** That the soil conditions, ground water conditions, topography and other natural conditions are of sufficient quality to support the maintenance of such disposal area and to prevent contamination of adjacent bodies of water ;

2. **Liquid discharges.** There will be no direct or indirect discharge or runoff of water or liquid waste from such disposal area to the adjacent bodies of water, or such runoff or discharge shall be licensed according to the provisions of section 414; and

3. **Other laws and regulations.** The operation and maintenance of the solid waste disposal area is in conformity with all other applicable laws and regulations.

The commission may establish reasonable terms and conditions for permits issued under this section.

The commission may establish such regulations as it deems necessary to implement this section, including provision for public hearings, application and report forms and fees.

#### STATEMENT OF FACT

This redraft is intended to correct certain redundancies and ambiguities contained in the original bill and to clarify the proposed regulatory powers of the Department of Health and Welfare. As in the original bill, the purpose of this Act is to treat the problems created by existing inadequate 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.

This redraft makes it clear that the Legislature is empowered to establish solid waste management districts and specifies the powers which those districts may exercise in the efficient and economical collection and disposal of solid wastes.

Section 3 has been added to the original draft in order to make existing statutes consistent with the proposed bill. The unified program of solid waste control requires that disposal areas meet certain minimum requirements of environmental safety. This amendment adds greater range to the Environmental Improvement Commission's regulatory powers and permits flexibility to municipalities in choosing disposal sites.