

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1518

H. P. 1139

House of Representatives, March 22, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Blodgett of Waldoboro.

Cosponsor: Mrs. Mitchell of Vassalboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Merge the Septage and Hazardous Waste Law into the Solid Waste Law
and to Conform them with the Requirements of the Federal Resource Recovery
and Conservation Act.**

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

Sec. 1. 38 MRSA §§ 1301 and 1302, as enacted by PL 1973, c. 387, are amended to read:

§ 1301. **Short title**

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

§ 1302. **Declaration of policy**

The Legislature declares it to be the policy of the State of Maine consistent with its responsibility to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent water and, air and land pollution, that it shall encourage **hazardous waste, septage and solid waste** programs, public or private, which will reduce the volume of **hazardous waste, septage and solid waste** production, improve efforts to reuse and recover valuable resources currently being wasted and which will not adversely affect the public health, safety and welfare of the citizens nor degrade the environment.

The Legislature also finds and declares that economic, efficient and environmentally sound method of waste disposal is of the highest priority. Municipalities and other persons are generating increasing amounts of **hazardous waste, septage and solid waste** with no systematic or consistent methods being used to reduce the volume of waste or to soundly dispose of it. Failure to plan properly for future **hazardous waste, septage and solid waste** may further deplete already taxed natural resources and aggravate environmental and public health problems resulting from present inadequate practices of resource recovery and **solid waste disposal conservation waste storage and management, transportation, treatment and disposal.**

Sec. 2. 38 MRSA § 1303, as amended by PL 1977, c. 78, § 208, is repealed and the following enacted in its place:

§ 1303. 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. **Board.** "Board" means the Board of Environmental Protection.
2. **Department.** "Department" means the Department of Environmental Protection.
3. **Disposal.** "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that the hazardous waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including groundwaters.
4. **Generation.** "Generation" means the act or process of producing waste materials.
5. **Hazardous waste.** "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous or semisolid form which, because of its quantity, concentration or physical, chemical or infectious characteristics, in the judgment of the board, may:

- A. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

These wastes include, but are not limited to, those which are toxic, corrosive, flammable, irritants or strong sensitizers, or which generate pressure through decomposition, heat or other means.

6. **Manifest.** "Manifest" means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transport.

7. **Resource conservation.** “Resource conservation” means the reduction of the amounts of solid waste that is generated, the reduction of overall resource consumption and utilization of recovered resources.

8. **Resource recovery.** “Resource recovery” means materials that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

9. **Septage.** “Septage” means waste, refuse effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

10. **Solid waste.** “Solid waste” means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural wastes.

11. **Storage.** “Storage” means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

12. **Transport.** “Transport” means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

13. **Treatment.** “Treatment” means any process designed to change the character or composition of any hazardous waste so as to render the waste less hazardous.

14. **Waste.** “Waste” means hazardous waste, septage, sludges or solid waste, as defined in this section, or any combination of these materials.

15. **Waste facility.** “Waste facility” means any land area or structure or combination of land area and structures, including dumps used for storing, transferring, salvaging, processing, reducing, recovering, incinerating, treating or disposing of wastes.

16. **Waste management.** “Waste management” means purposeful, systematic and unified control of the collection, storage, reduction, incineration, transportation, treatment, processing, recovering, salvaging and disposal of waste.

17. **Waste water treatment plant sludge.** “Waste water treatment plant sludge” means the construction of solids removed from sewage during waste water treatment.

Sec. 3. 39 MRSA § 1304, sub-§ 1, as last amended by PL 1977, c. 300, §§ 52 and 53, is repealed and the following enacted in its place:

1. **Rules.** The board may adopt, amend and enforce, subject to the Administrative Procedure Act, such rules as it deems necessary governing waste management, including the location, establishment, construction and alteration of

waste facilities. The rules shall be designed to encourage logical utilization of recoverable resources, to minimize pollution of the state's air, land and water resources, prevent the spread of disease or other health hazards, prevent contamination of drinking water supplies and protect public health and safety. In adopting these rules, the board shall also consider economic impact, technical feasibility and such differences as are created by population, waste volume and geographic location.

No rule adopted pursuant to this section shall exceed air quality standards authorized by chapter 4.

Sec. 4. 38 MRSA § 1304, sub-§ 2, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

2. Site location. The board may provide by rules that no person may locate, establish, construct, alter or operate any waste facility unless approved by the board under sections 481 to 488.

Sec. 5. 38 MRSA § 1304, sub-§ 4, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

4. Technical assistance. The department is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste disposal facilities, and to conduct applied research activities in the field of waste management, including methods of recycling waste items.

Sec. 6. 38 MRSA § 1304, sub-§ 4-A is enacted to read:

4-A. Right of entry. For the purposes of developing or enforcing any rule authorized by this Act, any duly authorized representative or employee of the department may, upon presentation of appropriate credentials, at any reasonable time:

A. Enter any place where wastes are generated, stored, treated or disposed of;

B. Inspect and obtain samples of any waste, including samples from any vehicle in which wastes are being transported, as well as samples of any containers or labels; and

C. Inspect and copy any records, reports, information or test results relating to the purposes of this Act.

Sec. 7. 38 MRSA § 1304, sub-§ 5, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

5. Planning grants. The department is authorized to receive funds, public and private, and to use the funds for the administration of this chapter. The board may make grants from the funds to municipalities and regional planning agencies or their agents, as designated by the municipality, for the purpose of planning and implementing waste management activities and waste disposal facilities pursuant to guidelines established by the board.

Sec. 8. 38 MRSA § 1304, sub-§§ 6, 7, and 8 are enacted to read:

6. Study. The department shall conduct and publish a study of hazardous waste management in this State. The study shall include, but not be limited to:

- A.** A description of the sources of hazardous waste generation within the State, including the types and quantities of those wastes; and
- B.** A description of current hazardous waste management practices and costs, including treatment and disposal, within the State.

7. Hazardous waste plan. After the publication of the study required by this section, the department shall develop and publish a plan for the safe and effective management of hazardous wastes within this State. The plan shall include, but not be limited to:

- A.** Identification of those locations within the State which are suitable for the establishment of hazardous waste treatment or disposal facilities or sites;
- B.** Identification of those locations within the State which are not suitable for the establishment of hazardous waste treatment or disposal facilities or sites; and
- C.** Rules establishing criteria or standards for:

- (1) The determination of whether any waste or combination of wastes is hazardous for the purposes of this Act;
- (2) The storage, treatment and disposal of hazardous wastes;
- (3) The containerization and labeling of hazardous wastes. These rules shall be consistent with those issued by the United States Department of Transportation and the Maine hazardous materials control statute, Title 25, chapter 256;
- (4) The safe operation and maintenance of hazardous waste treatment or disposal facilities or sites;
- (5) A listing of wastes or combinations of wastes which are not compatible, and which may not be stored or disposed of together;
- (6) The reporting of the generation, storage, transportation, treatment or disposal of hazardous wastes;
- (7) The certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites;
- (8) The use of a manifest during the transport of hazardous wastes;
- (9) The closing, termination and potential future uses of hazardous waste disposal sites; and
- (10) Evidence of financial capability to protect health, safety or welfare and the environment including, but not limited to:

- (a) **Liability insurance:**
- (b) **Bonding; and**
- (c) **Financial ability to comply with these statutes or permit conditions.**

8. Permits. The board shall grant a permit approving a waste disposal facility whenever it finds that waste to be disposed will not contaminate any water of the State or constitute hazard to health, welfare or safety, or create a nuisance to any person. By granting a permit under this section, the board may establish time schedules for compliance with the provisions of this chapter and regulations promulgated pursuant hereto and may impose such other terms and conditions as it may deem appropriate. Permits shall be issued for a period not to exceed 5 years and may be renewed.

Sec. 9. 38 MRSA § 1305, sub-§ 6, is enacted to read:

6. Municipal septage sites. Each municipality shall provide for the disposal of all waste, refuse, effluent, sludge and any other materials from all septic tanks and cesspools located within the municipality. In addition, any person may provide a site for disposal of that waste. Before making application to the Department of Environmental Protection for approval of any site, that person shall first have written approval for the site location from the municipality in which it is located. The municipality or the municipal officers authorized to act for the municipality, after hearing, shall approve any such private site if it finds that the site does not constitute a hazard to the health or safety of the residents of the municipality.

Sec. 10. 38 MRSA § 1306, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

§ 1306. Prohibited acts

1. Permit; exception. It shall be unlawful for any person to establish, construct, alter or operate any waste facility without a permit issued by the board, except that any person may dispose of septage removed from a septic tank or cesspool serving his residence on his own land.

2. Time schedules. The board may establish reasonable time schedules for compliance with this chapter and regulations promulgated by the board.

3. Terms and conditions of permits. Permits shall be issued under such terms and conditions as the board may prescribe.

4. Time period. Permits shall be issued for a period not to exceed 5 years and may be renewed.

Sec. 11. 38 MRSA § 1309 and 1310 are enacted to read:

§ 1309. Interstate cooperation

The Legislature encourages cooperative activities by the department with other states for the improved management of hazardous wastes; for improved, and so far as is practicable, uniform state laws relating to the management of hazardous wastes; and compacts between this and other states for the improved management of hazardous wastes.

§ 1310. Emergency

If the commissioner finds after investigation that the disposal of any waste has created or is likely to create a substantial and immediate danger to public health or safety, he may order the person or persons causing the disposal of the waste to immediately cease or prevent the disposal and to remove any waste already disposed from the disposal site.

Any order issued under this section shall contain findings of fact describing, insofar as possible, the waste being disposed, the site of the disposal and the danger to public health or safety.

Service of the commissioner's findings and any order directed to a person pursuant to this section shall be made by a sheriff or some deputy within the county in which that person resides or maintains a place of business.

The person to whom such an order is directed shall comply therewith immediately. The order may not be appealed to the Superior Court, but any person to whom it is directed may apply to the board for a hearing on the order, and the hearing shall be held by the board within 48 hours after receipt of application therefor. Within 7 days after the hearing, the board shall make findings of fact and continue, revoke or modify the order. The decision of the board may be appealed to the Superior Court.

Sec. 12. 38 MRSA c. 13-A, as enacted by PL 1977, c. 353, § 3, is repealed.

STATEMENT OF FACT

The purpose of this bill is to amend the Maine statutes regarding solid, septic and hazardous wastes in order to bring them into conformity with the requirements of the Federal Resource Recovery and Conservation Act. The bill accomplishes this by merging the existing septic and hazardous waste law into the solid waste law, and adding amendments hereto as required by the federal law. Specifically, this bill makes the following changes in existing law.

It adds the terms "hazardous waste" and "septage" to the title and purpose sections. In addition, attention is called to the possibility that existing practices of waste storage, management, transportation and treatment are inadequate for today's needs by adding these terms to the policy statement.

The definition section of the statute is expanded to include definitions for "disposal," "generation," "hazardous waste," "manifest," "storage," "transport," and "treatment" which are consistent with the definitions found in

the Federal Resource Conservation and Recovery Act. The definition of municipality and person are deleted for these terms are defined in Title 38, section 361-A. Adjustments in the definition of Solid Waste Disposal and Solid Waste Management are made to reflect usages found elsewhere in the Act.

The word "regulation" is deleted and replaced by the word "rule." In addition, special notice for municipal officials is eliminated. This will allow all notices to be consistent with the Administrative Procedure Act and Title 38, section 343. A new right of entry provision is added to the statute which will allow the staff of the department to enter and inspect property and vehicles where wastes are handled as well as copy records and other information at any reasonable time. It forms the basis of a hazardous waste materials program consistent with federal law. The department is instructed to identify the problem, propose a strategy for solving the identified problem and administer a permit system for all waste disposal sites.

The material inserted as Title 38, section 1305, subsection 6, is essentially the existing septage and hazardous materials law which is presently section 1320. Municipalities are not required to do anything different than is required by existing law.

A new subsection 8 is added to Title 38, section 1304, which establishes a permit system for the handling of all waste materials. Permits may be issued for 5 years and are renewable. In addition, the Board of Environmental Protection is authorized to establish reasonable time schedules to enable persons to comply with the law and board regulations. This permit system is partially new and partially existing. Septage sites and new or expanded solid waste sites require a permit at the present time. Hazardous waste facilities and older solid waste sites are the additional activities that will be required to obtain a permit.

The bill authorizes the State to participate in interstate activities involving hazardous waste.

It also moves Title 38, section 1322, to Title 38, section 1310, with the change that the emergency provisions apply to all waste disposal rather than being limited to waste with sufficient liquid content to be free flowing.

The bill repeals the existing cesspool and septic materials disposal statute and the emergency hazardous waste statute as these key provisions are moved into the solid waste program in this bill.