

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 574

6  
7 H.P. 477

House of Representatives, February 7, 1983

8 Received by the Clerk of the House on February 7, 1983. Referred to the  
9 Committee on Energy and Natural Resources and ordered printed pursuant to  
Joint Rule 14.

10 EDWIN H. PERT, Clerk

Presented by Representative Mitchell of Freeport.

Cosponsors: Representative Dexter of Kingfield, Representative Michaud  
of E. Millinocket and Representative Jacques of Waterville.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Amend the Hazardous Waste  
18 Statutes Administered by the Department of  
19 Environmental Protection.  
20

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

23 Sec. 1. 38 MRSA §1303, sub-§1-A, as enacted by  
24 PL 1979, c. 699, §3, is repealed and the following  
25 enacted in its place:

26 1-A. Conveyance or conveyances. "Conveyance or  
27 conveyances" means any aircraft, watercraft, vehicle  
28 or vehicles or other machine or machines used for  
29 transportation on land, water or in the air.

30 Sec. 2. 38 MRSA §1303, sub-§1-B, as enacted by  
31 PL 1981, c. 478, §1, is repealed and the following  
32 enacted in its place:

1           1-B. Commercial hazardous waste facility. "Com-  
2 mercial hazardous waste facility" means a waste  
3 facility for hazardous waste in which is handled  
4 hazardous waste not generated on site by the owner of  
5 the facility and hazardous waste generated on site as  
6 a result of handling hazardous waste not generated on  
7 site, or both.

8           Sec. 3. 38 MRSA §1303, sub-§5, as enacted by PL  
9 1979, c. 699, §5, is amended to read:

10           5. Hazardous waste. "Hazardous waste" means a  
11 waste substance or material, in any physical state,  
12 designated as hazardous by the board under section  
13 1303-A. It does not include waste resulting from  
14 normal household or agricultural activities. The fact  
15 that a hazardous waste or a part of a constituent  
16 may have value or other use ~~of~~ or may be sold or  
17 exchanged does not exclude it from this definition.

18           Sec. 4. 38 MRSA §1303-A, sub-§1, ¶A, as repealed  
19 and replaced by PL 1981, c. 430, §6, is amended to  
20 read:

21           1. Hazardous wastes may be identified as fol-  
22 lows.

23           A. The board may adopt rules identifying hazard-  
24 ous wastes. These rules may identify any sub-  
25 stance as a hazardous waste if that substance is  
26 identified as hazardous by a particular sub-  
27 stance, by characteristics, by chemical class or  
28 as waste products ~~of~~ of specific industrial ac-  
29 tivities in proposed or final rules of the United  
30 States Environmental Protection Agency, unless  
31 the United States Environmental Protection  
32 Agency, by rule, no longer identifies the sub-  
33 stance as hazardous.

34           Sec. 5. 38 MRSA §1303-A, sub-§3, ¶A, as repealed  
35 and replaced by PL 1981, c. 430, §6, is amended to  
36 read:

37           A. Licensing of transporters of hazardous  
38 wastes, conveyances used for the transportation

1 of hazardous wastes and the operators of these  
2 conveyances, and licensing fees shall be paid to  
3 the Maine Hazardous Waste Fund; and

4 Sec. 6. 38 MRSA §1304, sub-§9, as enacted by PL  
5 1981, c. 303, §1, is repealed.

6 Sec. 7. 38 MRSA §1304-A, sub-§3, ¶E, as enacted  
7 by PL 1981, c. 478, §5, is amended to read:

8 E. Identification of those geological areas of  
9 the State which, based on siting criteria in  
10 rules adopted by the United States Environmental  
11 Protection Agency and or in rules adopted by the  
12 board, are unsuitable for hazardous waste dis-  
13 posal facilities.

14 Sec. 8. 38 MRSA §1306-C, sub-§5, as enacted by  
15 PL 1981, c. 430, §18, is amended to read:

16 5. Civil liability. A person who disposes of  
17 hazardous waste, when that disposal, in fact, endan-  
18 gers the health, safety or welfare of another, is  
19 liable in a civil suit for all resulting damages. It  
20 is not necessary to prove negligence.

21 For the purposes of this ~~action~~ section, damages  
22 shall be limited to damages to real estate or per-  
23 sonal property or loss of income directly or indi-  
24 rectly as a result of a disposal of hazardous wastes.  
25 Damages awarded may be mitigated if the disposal is  
26 the result of an act of war or an act of God.

27 Sec. 9. 38 MRSA §1308-A, sub-§1, as enacted by  
28 PL 1981, c. 303, §2, is repealed and the following  
29 enacted in its place:

30 1. Closure plan. Closure of any new or existing  
31 waste facility for hazardous waste and, if required,  
32 post-closure care, shall be in accordance with a clo-  
33 sure plan and, if required, a post-closure plan,  
34 approved by the board. An applicant for a license  
35 for a waste facility for hazardous waste shall submit  
36 a closure plan and, if required, post-closure plan,  
37 for approval with his application for a license. For  
38 a facility which is licensed at the time of closure  
39 under an interim license, the licensee shall submit a



1 Section 6. This section repeals the so-called  
2 "restrictive covenants" provision, section 1304, sub-  
3 section 9. To the extent that section 1304, subsec-  
4 tion 9, is not redundant and inconsistent, it is  
5 incorporated into section 1308-A, subsection 1, as  
6 repealed and replaced by this bill.

7 Section 7. The word "and" is replaced by the  
8 word "or" in order that both the United States Envi-  
9 ronmental Protection Agency regulations and Maine  
10 Board of Environmental Protection rules may be used  
11 to identify geological areas of the State unsuitable  
12 for hazardous waste disposal facilities.

13 Section 9. This section repeals and replaces  
14 section 1308-A, subsection 1, incorporating the sub-  
15 stantive content of section 1304, subsection 9,  
16 (repealed by section 6 of this bill) and clarifying  
17 the requirements of both sections.

18 Section 10. Title 38, section 1319-I, subsection  
19 10, presently provides that fees established by the  
20 Legislature for generating and handling of hazardous  
21 wastes will lapse on December 31, 1983. If these  
22 fees lapse, there will be a very significant reduc-  
23 tion in income to the Maine Hazardous Waste Fund, out  
24 of which costs for cleanup of hazardous waste spills  
25 are paid. This section repeals the lapse date,  
26 allowing the fees to continue after that date and  
27 allowing the Maine Hazardous Waste Fund to continue  
28 to receive the fees. The effect of Title 38, section  
29 1303-A, subsection 3, paragraph A, will be to  
30 increase revenues to the Maine Hazardous Waste Fund  
31 by approximately \$20,000 annually, decreasing General  
32 Fund revenues by that amount. The effect of Title  
33 38, section 1319-I, subsection 10, is to allow the  
34 Maine Hazardous Waste Fund to continue after December  
35 31, 1983, to receive approximately \$120,000 annually  
36 from fees paid by generators and handlers of hazard-  
37 ous wastes.