

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1540

H.P. 1107

House of Representatives, May 8, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HANLEY of Paris.

Cosponsored by Senator LUDWIG of Aroostook, Representative SIMPSON of Casco and Representative DEXTER of Kingfield.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act Concerning Commercial Landfill Facilities.

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

3 38 MRSA c. 13, sub-c. I-B is enacted to read:

5 SUBCHAPTER I-B

7 DEVELOPMENT OF COMMERCIAL LANDFILL FACILITIES

9 §1310-X. Establishment of commercial landfill facility program

11 1. Establishment. A commercial landfill facility program  
12 is established to govern the establishment and operation of all  
13 commercial landfill facilities established, constructed or  
14 substantially expanded after December 31, 1989. Any person who  
15 has applied for a permit to establish, construct, or  
16 substantially expand a commercial landfill facility prior to  
17 January 1, 1990, is not subject to this subchapter. Owners of  
18 commercial landfill facilities who, after December 31, 1989, seek  
19 to substantially expand the facility, as defined in section 1303,  
20 subsection 11-A, are subject to this subchapter for the expanded  
21 portion of the facility.

23 2. Administration. The department shall administer the  
24 commercial landfill facility program established by this  
25 subchapter.

27 §1310-Y. Conveyance of land for commercial landfill facilities

29 1. Conveyance required. No land may be used to establish a  
30 new commercial landfill facility or to substantially expand an  
31 existing commercial landfill facility until fee simple title to  
32 the land or the expanded portion of the land has been conveyed to  
33 the State. In consideration for the conveyance, the State shall  
34 enter into a lease agreement with the grantor for a term equal to  
35 the estimated life of the facility in which the State shall be  
36 the lessor and the grantor the lessee.

37 2. Lease agreement. The lease agreement shall specify that  
38 for an annual rent of \$50, the lessee shall be allowed to use the  
39 land for the development and operation of a commercial landfill  
40 facility. The lease agreement shall provide that the lessor or  
41 any person authorized by the lessor shall at all times have the  
42 right to enter without a search warrant or permission of the  
43 lessee upon any and all parts of the premises for monitoring,  
44 inspection and all other purposes necessary to carry out the  
45 purposes of this subchapter. The lessee shall remain fully  
46 liable for all damages, losses, personal injury or property  
47 damage which may result or arise out of the lessee's operation of  
48 the facility, and for compliance with regulatory requirements  
49 concerning insurance, financial or health and safety requirements  
50 as required by applicable law and rules. The State, as lessor,  
51 shall be immune from liability except as otherwise provided by

1 statute. The lease shall be transferable with the written  
3 consent of the lessor and the consent shall not be unreasonably  
5 withheld. In the case of a transfer of the lease, the transferee  
7 shall be subject to all terms and conditions that the State  
9 considers necessary to ensure compliance with applicable laws and  
11 rules. If the lessee or any successor in interest fails in any  
13 material respect to comply with any applicable law, rule or  
15 permit condition, or with any term or condition of the lease, the  
17 State may terminate the lease after giving the lessee written  
19 notice specifically describing the failure to comply and upon  
21 providing the lessee a reasonable time to comply. If the lessee  
23 does not effect compliance within the reasonable time allowed,  
25 the State may reenter and take possession of the premises. The  
27 lease agreement shall provide that not more than 10% of the  
29 landfill facility be used for disposal of solid waste generated  
31 beyond the borders of the State.

3. Closure of site. Notwithstanding the termination of the  
lease by either the lessee or the lessor for any reason, the  
lessee shall remain liable for, and be obligated to perform, all  
acts necessary or required by law, rule, permit condition or the  
lease for the permanent closure of the site until the site has  
either been permanently closed or until a substituted operator  
has been secured and has assumed the obligations of the lessee.

4. Termination of lease. In the event of changes in laws  
or rules applicable to the facility which make continued  
operation by the lessee impossible or economically infeasible,  
the lessee shall have the right to terminate the lease upon  
giving the State reasonable notice of not less than 6 months, in  
which case the lessor shall have the right to secure a substitute  
lessee and operator. In the event of termination of the lease by  
the lessor as provided in subsection 1, or by the lessee as  
provided in this subsection, the lessee shall be paid the fair  
market value of any improvements made to the leased premises less  
the costs to the lessor resulting from termination of the lease  
and securing a substitute lessee and operator. However, the  
lessor shall have no obligation to secure a substitute lessee or  
operator and may require the lessee to permanently close the  
facility.

## STATEMENT OF FACT

This bill requires each new commercial landfill facility to  
give its land to the State in exchange for a lease arrangement  
which would allow the owners to operate a commercial landfill  
facility. It also prohibits more than 10% of the landfill  
facility to be used for the disposal of imported solid waste.