L.D. 2354

(Filing No. H-1069)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1705, L.D. 2354, Bill, "An Act to Correct Errors in the Solid Waste Laws"

Amend the bill by striking out all of the title and inserting in its place the following:

'**An Act to Correct Errors and Facilitate Implementation of the Solid Waste Laws**'

Further amend the bill in Part A by striking out all of sections A-2 to A-4.

Further amend the bill in Part A by striking out all of section A-6.

Further amend the bill in Part A by inserting after section A-6 the following:

'**Sec. A-7. 38 MRSA §1303-C, sub-§1-A** is enacted to read:

1-A. **Biomedical waste.** "Biomedical waste" means waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals used in medical treatment.

Sec. A-8. 38 MRSA §1303-C, sub-§7, ¶E, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

E. The person generating the solid waste disposed of at the facility, except that the facility may accept, on a nonprofit basis, no more than 15% of all solid waste accepted on an annual average that is not generated by the

owner. A waste facility receiving ash resulting from the combustion of municipal solid waste or refuse-derived fuel ~~derived from municipal solid waste~~ is not exempt from this subsection solely by operation of this paragraph.

Sec. A-9. 38 MRSA §1303-C, sub-§§24, 25, 29, 30, 31, 34 and 40, as enacted by PL 1989, c. 585, Pt. E, §4, are amended to read:

24. Regional association. "Regional association" means 2 or more municipalities that have formed a relationship to manage the solid waste generated within the participating municipalities and for which those municipalities are responsible. The relationship must be formed by one or more of the following methods: ~~a refuse disposal district under chapter 17 or a public waste disposal corporation under section 1304-B or that have entered into a joint exercise of powers agreement under Title 30-A, chapter 115, in order to manage the solid waste generated within the participating municipalities and for which those municipalities are responsible.~~

A. Creation of a refuse disposal district under chapter 17;

B. Creation of a nonprofit corporation that consists exclusively of municipalities and is organized under Title 13, chapter 81 or Title 13-B, for the purpose, among other permissible purposes, of owning, constructing or operating a solid waste disposal facility, including a public waste disposal corporation under section 1304-B;

C. Creation of a joint exercise of powers agreement under Title 30-A, chapter 115; or

D. Contractual commitment.

25. Residue. ~~"Residual waste"~~ "Residue" means waste ~~resulting from~~ remaining after the handling, processing, ~~disposal~~ incineration or recycling of solid waste including, without limitation, front end waste and ash from incineration facilities.

29. Solid waste. "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste, septic tank sludge or agricultural wastes. The fact that a solid waste or constituent of the waste may have value or other use or may be sold or exchanged does not exclude it from this definition.

30. Solid waste disposal facility. "Solid waste disposal facility" means a solid waste facility for the ~~disposal~~ incineration or landfilling of solid waste ~~except--that--the following-facilities-are-not-included:~~ or refuse-derived fuel.

~~A.---A-waste-facility-that-employs-controlled-combustion-to dispose-of-waste-generated-exclusively-by-an-institutional, commercial---or---industrial--establishment--that--owns--the facility;-and~~

~~B.---Lime-kilns;--wood-chip,--bark-and-hogged-fuel--boilers; kraft-recovery-boilers-and-sulfite-process-recovery-boilers, which--combust--solid--waste--generated--exclusively--at--the facility.~~

31. Solid waste facility. "Solid waste facility" means a waste facility used for the handling of solid waste~~.~~ , except that the following facilities are not included:

A. A waste facility that employs controlled combustion to dispose of waste generated exclusively by an institutional, commercial or industrial establishment that owns the facility; and

B. Lime kilns; wood chip, bark and hogged fuel boilers; kraft recovery boilers and sulfite process recovery boilers, which combust solid waste generated exclusively at the facility.

34. Special waste. "Special waste" means any ~~nonhazardous~~ solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, ~~which~~ that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

A. Oil, coal, wood and multifuel boiler and incinerator ash;

B. Industrial and industrial process waste;

C. Waste water treatment plant sludge, paper mill sludge and other sludge waste;

D. Debris and residuals from nonhazardous chemical spills and cleanup of those spills;

E. Contaminated soils and dredge spoils;

F. Asbestos and asbestos-containing waste;

G. Sand blast grit and nonliquid paint waste;

~~H. Medical and other biological waste not identified under section 1319-O, subsection 1, paragraph A, subparagraph (4);~~

I. High and low pH waste;

J. Spent filter media and residue; and

K. Other waste designated by the board, by rule.

40. Waste facility. "Waste facility" means any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous, biomedical or solid waste, waste oil, sludge or septage. A land area or structure does not become a waste facility solely because:

A. It is used by its owner for disposing of septage from the owner's residence;

B. It is used to store for 90 days or less hazardous wastes generated on the same premises;

C. It is used by individual homeowners or lessees to open burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under section 599, subsection 3; or

D. It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted under section 599, subsection 3.'

Further amend the bill in Part A in section A-8 in subsection 3 in paragraph A in the first line (page 3, line 14 in L.D.) by inserting after the following: "11" the following: 'or by special act of the Legislature'

Further amend the bill in Part A by striking out all of section A-10 and inserting in its place the following:

'**Sec. A-10. 38 MRSA §1310-X,** as enacted by PL 1989, c. 585, Pt. E, §34, is repealed and the following enacted in its place:

§1310-X. Future commercial landfills

1. New facilities. Notwithstanding the provisions of Title 1, section 302, the board may not approve an application for a new commercial solid waste or biomedical waste disposal facility after September 30, 1989, including any applications pending before the board on or after September 30, 1989.

2. Relicense or transfer of license. The board may relicense or approve a transfer of license for commercial solid waste disposal facilities or biomedical waste disposal facilities after September 30, 1989, if those facilities had been previously licensed by the board prior to September 30, 1989, and all other provisions of law have been satisfied.

3. Expansion of facilities. The board may license expansions of commercial solid waste disposal facilities or biomedical waste disposal facilities after September 30, 1989, if:

A. The board has previously licensed the facility prior to September 30, 1989;

B. The board determines that the proposed expansion is contiguous with the existing facility and is located on property owned by the licensee on September 30, 1989; and

C. For commercial solid waste disposal facilities and prior to the adoption of the state plan and siting criteria under chapter 24, the board determines that the proposed expansion is consistent with the provisions of section 1310-R, subsection 3, paragraph A-1 or, after the adoption of the state plan and siting criteria under chapter 24, the agency determines that the provisions of section 2157 are met.

Sec. A-11. 38 MRSA §1319-O, sub-§1, ¶A, as amended by PL 1989, c. 124, §2, is further amended to read:

A. The board may adopt and amend rules identifying hazardous waste. It is the intent of the Legislature that the board shall identify as hazardous waste those substances ~~which~~ that are identified by the United States Environmental Protection Agency in proposed or final regulations. The Legislature also intends that the board may identify as hazardous waste, in accordance with paragraph B, other substances in addition to those identified by the United States Environmental Protection Agency. Further, the Legislature intends that a substance ~~which~~ that has been identified as a hazardous waste by the board ~~shall~~ must be removed from identification only by further rulemaking by the board.

Hazardous waste may be identified as follows.

(1) The board may identify any substance as a hazardous waste if that substance is identified as hazardous by particular substance, by characteristic, by chemical class or as a waste product of a specific industrial activity in proposed or final rules of the United States Environmental Protection Agency.

(2) The board may identify any substance as a hazardous waste if the board, after evaluation based on existing data or data reasonably extrapolated from previously conducted studies using similar classes of substances or compounds under similar circumstances, has determined that the substance is an acute or chronic toxin causing significant potential adverse public health or environmental effects. An acute or chronic toxin may include the characteristics of:

(a) Carcinogenicity;

(b) Mutagenicity;

(c) Teratogenicity; or

(d) Infectiousness.

Rules adopted under this subparagraph ~~shall~~ must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources for review. These rules ~~shall~~ remain in effect until 90 days after adjournment of the next regular session of the Legislature unless adopted by legislative enactment.

(3) Whenever the board proposes to adopt or amend rules identifying hazardous waste or removing hazardous waste from identification, it shall hold a public hearing.

(4) In addition to hazardous waste identified under subparagraphs (1) and (2), the Legislature identifies the following chemicals, materials, substances or waste as being hazardous waste:

(a) Polychlorinated biphenyls and any substance containing polychlorinated biphenyls~~;--and~~ .

~~(c)---Pathogenic--and--infectious--waste.---For--the purposes---of---this---section,---"pathogenic---and~~

~~infectious--waste"--means--any--material--containing microorganisms-or-viruses-capable-of-causing-human disease.~~

Sec. A-12. 38 MRSA §1319-O, sub-§3, as enacted by PL 1989, c. 124, §3, is amended to read:

3. Handling and disposal of biomedical waste. ~~On-or-before January-1,-1990,-the~~ The board shall adopt rules relating to the packaging, labeling, handling, storage, collection, transportation, treatment and disposal of biomedical waste, including infectious and pathogenic waste, to protect public health, safety and welfare and the environment.

A. The rules ~~shall~~ must include, without limitation:

(1) Registration of biomedical waste generators;

(2) Handling of biomedical waste by generators;

(3) Licensing of biomedical waste transporters and the conveyances used for the transportation of biomedical waste;

(4) Implementation of a biomedical waste tracking or manifest system; ~~and~~

(5) Establishment of treatment and disposal standards~~.~~ ; and

(6) Categories of biomedical waste subject to regulation under this subsection, consistent with the provisions of section 1303-C, subsection 1-A.

B. The board shall adopt rules governing the siting, licensing, operational and ~~record--keeping~~ record-keeping requirements for biomedical waste treatment, storage and disposal facilities.

C. The board shall require evidence of financial capacity.

D. The board may assess licensing fees sufficient to pay for the department's administrative costs in regulating biomedical waste.

~~The-board-shall-submit-the-rules-to-the-joint-standing-committee of--Legislature--with--jurisdiction--over--natural--resources--for review-on-or-before-January-1,-1990.~~'

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Further amend the bill in Part A by striking out all of section A-11.

Further amend the bill in Part A by striking out all of section A-13 and inserting in its place the following:

'**Sec. A-13. 38 MRSA §2203,** as enacted by PL 1989, c. 585, Pt. A, §7, is repealed and the following enacted in its place:

§2203. Fee on special waste

1. Commercial landfills. Fees are imposed in the following amounts to be levied for special waste that is disposed of at commercial landfills.

Asbestos	$6 per cubic yard
Oil spill debris	$25 per ton
Residuals from soil decontamination	$6 per ton
Waste water facility sludge	$2 per ton
Ash, coal and oil	$6 per ton
Paper mill sludge	$6 per ton
Industrial waste	$6 per ton
Sandblast grit	$6 per ton
Miscellaneous special waste	$6 per ton
Municipal solid waste ash	$2 per ton

2. Municipal and regional association landfills. Fees are imposed in the following amounts to be levied for special waste that is disposed of at a municipal landfill or a regional association landfill.

Asbestos	$2 per cubic yard
Oil spill debris	$25 per ton
All other special waste	$2 per ton

Sec. A-14. 38 MRSA §2204, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2204. Municipal disposal surcharge

The agency shall impose a disposal surcharge of $4 per ton on any municipal solid waste ~~delivered to~~ disposed of at a commercial landfill facility ~~or solid waste landfill owned by the agency or a regional association~~. The agency shall impose an additional $1.50 per ton on any solid waste delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the agency or a regional association from a municipality that does not meet the requirements of section 2133, subsection 5, paragraph B.'

Further amend the bill by inserting before Part B the following:

'**Sec. A-18. PL 1989, c. 585, Pt. F, §2, under the caption "TOTAL ALLOCATIONS," in the first line,** is amended to read:

TOTAL ALLOCATIONS	$1,808,590	~~$5,919,452~~ $5,594,452

Sec. A-19. Transition. To the extent that the Maine Waste Management Agency or a municipality has collected from a generator any special waste disposal fees under the Maine Revised Statutes, Title 38, section 2203, prior to the effective date of this Act, in excess of the amount that would have been due had that section, as amended by this Act, been in force, the agency shall credit all excess amounts toward future payments paid by that generator.

To the extent that the Maine Waste Management Agency has collected from a regional association any fees under Title 38, section 2204, prior to the effective date of this Act, in excess of the amount that would have been due had that section, as amended by this Act, been in force, the agency shall refund to the regional association all excess amounts.

Sec. A-20. Retroactivity. Those portions of this Act that amend the Maine Revised Statutes, Title 38, section 1303-C, subsections 29, 34 and 40 and section 1319-O, subsections 1 and 3 and that enact Title 38, section 1303-C, subsection 1-A apply retroactively to February 1, 1990.

Sec. A-21. Report. The Maine Waste Management Agency shall report, on or before March 1, 1991, to the Joint Standing Committee on Energy and Natural Resources and the Office of the Executive Director of the Legislative Council on the expenditure of all funds from the Maine Solid Waste Management Fund since the

inception from the fund. The report must include identification and purpose of all personal services and agency consultants costs, grants made to municipalities and any other parties, transfers of funds to other agencies, transfers to the General Fund for whatever purpose and any other areas of expenditure relevant to the duties of the agency.'

Further amend the bill in Part A by renumbering the sections to read consecutively.

Further amend the bill by inserting before the statement of fact the following:

PART C

Sec. C-1. 7 MRSA §18 is enacted to read:

§18. Connectors

After July 1, 1991, no person may sell or offer to sell products in containers connected to each other by plastic rings or other plastic holding devices.

Sec. C-2. 32 MRSA §1863, as repealed and replaced by PL 1989, c. 585, Pt. D, §§5 and 11, is amended to read:

§1863. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a deposit and refund value. The deposit and refund value shall be determined according to the provisions of this section.

1. Refillable containers. For refillable beverage containers, except wine and spirits containers, the manufacturer shall determine the deposit and refund value ~~shall be determined by the manufacturer~~ according to the type, kind and size of the beverage container~~, but shall not be~~. The deposit and refund value must not be less than 5¢~~,~~.

~~**2. Nonrefillable containers.** For nonrefillable beverage containers, except wine and spirits containers, the deposit and refund value shall be determined and initiated by the distributor according to the type, kind and size of the beverage container, but shall not be less than 5¢, and~~

2-A. Nonrefillable containers; exclusive distributorships. For nonrefillable beverage containers, except wine and spirits containers, sold through geographically exclusive

distributorships, the distributor shall determine and initiate the deposit and refund value according to the type, kind and size of the beverage container. The deposit and refund value must not be less than 5¢.

2-B. Nonrefillable containers; nonexclusive distributorships. For nonrefillable beverage containers, except wine and spirits containers, not sold through geographically exclusive distributorships, the deposit and refund value must not be less than 5¢.

3. Wine and spirits containers. For wine and spirits containers of greater than 50 milliliters, the refund value ~~shall~~ must not be less than 15¢. On January 1, 1992, the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during 1991, then, on July 1, 1992, the refund value on wine containers ~~shall~~ must not be less than 25¢. If the department finds the return rate of spirits containers was less than 60% during 1991, then on July 1, 1992, the refund value of spirits containers ~~shall~~ must not be less than 25¢.

Sec. C-3. 32 MRSA §1865, sub-§2, as amended by PL 1989, c. 427, §2, is further amended to read:

2. Brand name. ~~Glass~~ Refillable glass beverage containers of carbonated beverages, for which the deposit is initiated under section 1863, subsection 1, having a refund value of not less than 5¢ and having a brand name permanently marked thereon, ~~shall~~ are not be required to comply with the provisions of subsection 1.

Sec. C-4. 32 MRSA §1866, sub-§4, as amended by PL 1989, c. 585, Pt. D, §§6 and 11, is repealed and the following enacted in its place:

4. Reimbursement of handling costs. Reimbursement of handling costs is governed by this subsection.

A. In addition to the payment of the refund value, the initiator of the deposit under section 1863, subsections 1, 2-A and 3 shall reimburse the dealer or local redemption center for the cost of handling beverage containers subject to section 1863, in an amount that equals at least 3¢ per returned container.

B. In addition to the payment of the refund value, the initiator of the deposit under section 1863, subsection 2-B shall reimburse the dealer or local redemption center for

the cost of handling beverage containers subject to section 1863 in an amount that equals at least 3¢ per returned container. The initiator of the deposit may reimburse the dealer or local redemption center directly or indirectly through a contracted agent.

Sec. C-5. 32 MRSA §1866, sub-§5, as enacted by PL 1987, c. 722, is repealed and the following enacted in its place:

5. Obligation to pick up containers. The obligation to pick up beverage containers subject to this chapter is determined as follows.

A. A distributor that initiates the deposit under section 1863, subsection 2-A or 3 has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the distributor from dealers to whom that distributor has sold those beverages and from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. A distributor that, within this State, sells beverages under a particular label exclusively to one dealer, which dealer offers those labeled beverages for sale at retail exclusively at the dealer's establishment, shall pick up any empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor to the dealer only from those licensed redemption centers that serve the various establishments of the dealer, under an order entered under section 1867. A dealer that manufactures its own beverages for exclusive sale by that dealer at retail has the obligation of a distributor under this section. The commissioner may establish by rule, in accordance with the Maine Administrative Procedure Act, criteria prescribing the manner in which distributors shall fulfill the obligations imposed by this paragraph. The rules may establish a minimum number or value of containers below which a distributor is not required to respond to a request to pick up empty containers. Any rules promulgated under this paragraph must allocate the burdens associated with the handling, storage and transportation of empty containers to prevent unreasonable financial or other hardship.

B. The initiator of the deposit under section 1863, subsection 2-B has the obligation to pick up any empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and

from licensed redemption centers designated to serve those dealers pursuant to an order entered under section 1867. The obligation may be fulfilled by the initiator directly or indirectly through a contracted agent.

Sec. C-6. 32 MRSA §1868, sub-§4, as enacted by PL 1989, c. 585, Pt. D, §§8 and 11, is repealed and the following enacted in its place:

4. Aseptic and composite material beverage containers. In a container composed, in whole or in part, of aluminum and plastic or of aluminum and paper in combination where those materials are for practical reasons inseparable.

Sec. C-7. 32 MRSA §1872, sub-§4 is enacted to read:

4. Exempt facilities. The department may, by rule, adopt procedures for designating certain transportation activities and storage or production facilities or portions of facilities as exempt from this section. Any exemption granted under this subsection must be based on a showing by the person owning or operating the facility or undertaking the activity that:

A. The beverage containers stored or transported are intended solely for retail sale outside of the State;

B. The beverage containers are being transported to and stored in a facility licensed under Title 28-A, section 1371, subsection 1 prior to labeling and subsequent retail sale within the State; or

C. The person is licensed under Title 28-A, section 1401 to import malt liquor and wine into the State, the beverage containers contain malt liquor or wine and these containers are being transported or stored prior to labeling and subsequent retail sale within the State.

The department may require reporting of the numbers of beverage containers imported into and exported from the State under the terms of this subsection.

Sec. C-8. 38 MRSA §606-A is enacted to read:

§606-A. Tire-derived fuel

Any physical or operational change of an industrial power boiler that does not result in an increase in permitted emissions and that is undertaken for the purpose of allowing the source to burn tire-derived fuel is not a modification of the source or emissions unit pursuant to regulations implementing section 590.

Sec. C-9. 38 MRSA §608-A, as enacted by PL 1989, c. 546, §13, is amended to read:

§608-A. Soil decontamination

Any rotary drum mix asphalt plant may process up to ~~5,000~~ 500 cubic yards of soil contaminated by gasoline or #2 fuel oil per year. The ~~5,000~~ 500 cubic yards per year limit may be exceeded with written authorization from the Department of Environmental Protection based on air emissions testing results for volatile organic compounds and particulates. The plant owner or operator shall notify the department at least 24 hours prior to processing the contaminated soil and specify the contaminating fuel and quantity, origin of the soil and fuel and the disposition of the contaminated soil. The owner or operator shall maintain records of these activities for 6 years.

Sec. C-10. 38 MRSA §1304-B, sub-§5, as amended by PL 1987, c. 737, Pt. C, §§95 and 106; PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

5. Public waste disposal corporations. Notwithstanding any law, charter, ordinance provision or limitation to the contrary, pursuant to any interlocal agreement entered into in accordance with Title 30-A, chapter 115, any 2 or more municipalities may organize or cause to be organized or may participate in one or more corporations organized as nonprofit corporations under Title 13, chapter 81, or Title 13-B for the purpose, among other permissible purposes, of owning or operating any one or more waste facilities described in subsection 4, paragraph A, and a subscribing municipality may agree in any such interlocal agreement to pay fees, assessments or other payments as described in subsection 4, paragraph B, for such term of years and on such other terms as the interlocal agreement may provide and may pledge the full faith and credit of the municipality to the same extent provided in subsection 4, paragraph C. The applicable interlocal agreement or the articles of incorporation or bylaws of the corporation ~~shall~~ must provide that:

A. The corporation shall be organized and continuously thereafter operated as a nonprofit corporation, no part of the net earnings of which may inure to the benefit of any member, director, officer or other private person;

B. The directors of the corporation shall be elected by the municipal officers of the municipalities participating in the corporation; and

C. Upon dissolution or liquidation of the corporation, title to all of its property shall vest in one or more of the municipalities participating in the corporation.

Any interlocal agreement complying with the requirements of this subsection and subsection 6 ~~shall~~ must be a properly authorized, legal, valid, binding and enforceable obligation of the municipality, regardless of whether the agreement was authorized, executed or delivered prior to or after the effective date of this subsection. Any corporation organized in a manner ~~which~~ that satisfies the requirements set forth in this subsection and subsection 6, whether organized prior to or after the effective date of this subsection, shall be deemed for all purposes as organized pursuant to this subsection. If so provided in the applicable interlocal agreement, any such corporation shall have the power, in addition to any other powers ~~which~~ that may be delegated under Title 30-A, chapter 115, to issue, on behalf of one or more of the municipalities participating in the corporation, in order to finance the facilities, revenue obligation securities issued in accordance with Title 10, chapter 110, subchapter IV, and any other bonds, notes or debt obligations which municipalities are authorized to issue by applicable law. For these purposes, the term "municipal officers" as used in Title 10, chapter 110, subchapter IV, means the board of directors of any corporation described in this subsection. Title 10, section 1064, subsection 6, ~~shall~~ may not be construed to prohibit the assignment or pledge as collateral security of any contract of a municipality authorized by this section or of any or all of the payments under this section, regardless of whether the provisions of subsection 4, paragraph C, are applicable to the contract or payments. The provisions of Title 10, sections 1063 and 1064, subsection 1, paragraph A and paragraph C, subparagraph (4) do not apply to revenue obligation securities issued by any public waste disposal corporation described in this subsection.

Sec. C-11. 38 MRSA §2157, first ¶, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

Subsequent to the adoption of the state plan, the Board of Environmental Protection shall not approve an application of a new or expanded solid waste disposal facility requiring review under this section until the agency has approved the proposed facility under this section. An expansion of a solid waste disposal facility owned by a municipality or a regional association or a sanitary district created under chapter 11 or by special act of the Legislature is not subject to paragraph C, subparagraph (2), if the facility was licensed and in existence as of October 1, 1989, and at the time of application for the expansion.

Sec. C-12. PL 1989, c. 585, Pt. D, §11 is amended to read:

Sec. 11. Effective date. Sections 2 to 5 ~~and section 8~~ of this Part ~~shall~~ take effect ~~September 1,~~ December 31, 1990, except that any provisions in those sections applicable to implementation of a refund value for spirits containers ~~shall~~ take effect January 1, 1990 and any provisions in those sections applicable to implementation of a refund value for wine containers take effect September 1, 1990. Section 8 of this Part takes effect September 1, 1990. Sections 6 and 9 of this Part ~~shall~~ take effect January 1, 1990. Sections 1 to 7 of this Part ~~shall~~ take effect 90 days after adjournment of the First Regular Session of the 114th Legislature.

Sec. C-13. P&SL 1989, c. 81, §6 is amended to read:

Sec. 6. Allocations from General Fund bond issue; remediation and closure of solid waste landfills. The proceeds of the sale of bonds shall be expended as designated in the following schedule.

	1989-90
ENVIRONMENTAL PROTECTION, DEPARTMENT OF	
Site Evaluation and Planning Program	
All Other	$2,000,000
Municipal Implementation Grants Program	
All Other	~~$6,000,000~~ $4,000,000

Sec. C-14. Rulemaking for implementation of the expanded beverage container deposit system. The Department of Agriculture, Food and Rural Resources may adopt rules to implement the provisions of Public Law 1989, chapter 585, Part D.

Sec. C-15. Effective date. Sections C-2 to C-5 of this amendment take effect on September 1, 1990.

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FISCAL NOTE

If enacted, this legislation will:

1. Result in a reduction of dedicated revenue to the Maine Waste Management Agency in the amount of $90,385 for fiscal year 1990-91. This reduction in the Solid Waste Management Fund would occur from exempting publicly owned facilities from paying disposal fees on municipal solid waste and reducing special waste disposal fees at publicly owned facilities; and

2. Amend the definition of solid waste to exclude hazardous waste and biomedical waste. This clarifying provision is expected to result in no fiscal impact to the State for the biennium.

Finally, there is companion legislation being considered by the Joint Standing Committee on Taxation that affects the Solid Waste Management Fund.'

STATEMENT OF FACT

This amendment makes certain revisions to provisions of the original bill and includes further corrections to facilitate implementation of the original bill.

The fee schedule for disposal of special and municipal solid waste is revised to lower fees for wastes delivered to public disposal facilities and to eliminate any fee for the disposal of municipal solid waste at a publicly owned landfill. Any prior overcollection will be credited or refunded. A higher fee is imposed on the disposal of oily debris to encourage recycling of this material. An existing exemption from air quality licensing requirements related to the use of oily debris in asphalt plants is tightened.

The amendment changes the responsibilities for the initiation of beverage container deposits on those beverages that are sold through nonexclusive distributorships. This change will facilitate implementation of the bottle bill expansion enacted as part of the 1989 comprehensive solid waste legislation. Other amendments to the beverage container law are included to make related provisions of the beverage container law consistent with the change in initiation responsibility. The effective date of the expansion for nonalcoholic beverage is delayed until December 31, 1990.

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Certain procedural requirements for bond issuance by public waste disposal corporations are changed to allow more timely issuance of debt from these entities.

Expansions of existing, licensed public disposal facilities are exempted from the need to meet siting criteria established by the Maine Waste Management Agency. Such expansion remains subject to the requirement to demonstrate consistency with the capacity needs identified by the agency.

Allocations for expenditure of the General Fund bonds for landfill closure and remediation are revised to allow for necessary evaluation and closure planning activities that precede actual closure.

This amendment allows industrial power boilers to burn tire-derived fuel if the action does not result in an increase in permitted emissions.

This amendment extends the current prohibition on the licensing of new commercial solid waste disposal facilities to include new commercial biomedical waste disposal facilities.

Finally, the amendment corrects a substantive error made in the 1989 comprehensive solid waste legislation with regard to the jurisdiction of the Maine Waste Management Agency over hazardous and biomedical wastes. The majority of the committee believes that the clear intent of the 1989 legislation was to limit the agency's jurisdiction to nonhazardous forms of solid waste. Recent developments have raised a question over this understanding. The question centers on the definition of the term, "solid waste." This amendment clearly states that this term does not include hazardous or biomedical wastes, consistent with what the committee majority feels was the intent of the 1989 legislation. This amendment avoids the need for substantial staff increases at the agency to deal with hazardous and biomedical waste planning, management and disposal facility development.

Reported by the Majority of the Committee on Energy and Natural Resources
Reproduced and distributed under the direction of the Clerk of the House
4/5/90 (Filing No. H-1069)