

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2363

H.P. 1712

House of Representatives, February 26, 1990

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

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 FOSS of Yarmouth.

Cosponsored by Representative MICHAUD of East Millinocket and Representative LARRIVEE of Gorham.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act to Amend the Solid Waste Landfill Remediation and Closure  
Laws Administered by the Department of Environmental Protection.**

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(EMERGENCY)



2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** large numbers of municipal landfills must be  
properly cleaned up in a timely and effective manner to protect  
public health and the environment; and

8  
10           **Whereas,** contractors wishing to engage in landfill closure  
activities are unable to engage in such work, due to the  
difficulty with and long-term costs of liability insurance  
coverage; and

14           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

22           **Sec. 1. 38 MRSA §1310-C, sub-§4, ¶¶F, G, H and I** are enacted to  
read:

24  
26           F. "Contractor" means a business entity that engages in, or  
intends to engage in, landfill closure activities as a  
business service on property that it does not own.

28  
30           G. "Discharge" includes, but is not limited to, any  
spilling, leaking, pumping, pouring, emitting, disposing,  
emptying or dumping of pollutants onto the land or into the  
water or ambient air.

34           H. "Contamination," as applied to ground water and surface  
water, means exceeding water quality standards, attributable  
to the solid waste facility, specified in:

38           (1) Primary drinking water standards, as promulgated  
by rule, adopted by the Department of Human Services,  
pursuant to Title 22, section 2611;

42           (2) Maximum exposure guidelines, as promulgated by  
rule, adopted by the Department of Human Services  
pursuant to Title 22, section 2605; and

44  
46           (3) A statistically significant increase in  
concentration of measured parameters above an  
established baseline, whether or not the existing  
concentration already exceeds the maximum concentration  
levels specified in this section, using the 95%

2 confidence interval when the student's t-test is  
3 applied. The use of other statistical tests and  
4 confidence intervals must be approved by the department.

5  
6 I. "Pollutant" means dredged spoils, solid waste, junk,  
7 incinerator residue, sewage, refuse, effluent, garbage,  
8 sewage sludge, munitions, chemicals, biological or  
9 radiological materials, oil, petroleum products or  
10 by-products, heat, wrecked or discarded equipment, rock,  
11 sand, dirt and industrial, municipal, domestic, commercial  
12 or agricultural wastes of any kind, or any constituent  
13 thereof.

14 **Sec. 2. 38 MRSA §1310-C, sub-§6** is enacted to read:

15 **6. Contractor liability.** Contractors who close landfills  
16 pursuant to plans approved by the department are not liable to  
17 parties other than the State for the death of or injury to  
18 persons, or for any property damages resulting from:

19  
20 A. Landfill closure, provided the actions of the contractor  
21 are in compliance with the closing plans approved by the  
22 department; or

23  
24 B. Contamination or a discharge of pollutants that is  
25 discovered more than 12 months after the date on which the  
26 department executes written confirmation that the closing  
27 has been conducted in compliance with the approved plans.

28  
29 **Emergency clause.** In view of the emergency cited in the  
30 preamble, this Act takes effect when approved.

31  
32  
33 **STATEMENT OF FACT**

34  
35 The purpose of this bill is to limit the liability of  
36 contractors performing landfill closure activities. In order to  
37 retain general insurance coverage, contractors must pay  
38 environmental enforcement premiums during the performance of  
39 closure activities, and annually thereafter, in order to be  
40 covered should any claims be filed against the contractor at any  
41 point in the future. This bill limits the liability of  
42 contractors to persons other than the State and this bill  
43 relieves contractors of the need to pay for continued coverage  
44 provided that no discharges are discovered during the 12-month  
45 period following confirmation by the Department of Environmental  
46 Protection that the closure has been completed in accordance with  
47 department-approved plans.  
48