

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 340

H.P. 249

House of Representatives, February 5, 1991

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.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Concerning Commercial Landfill Facilities.



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

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

SUBCHAPTER I-B
DEVELOPMENT OF COMMERCIAL LANDFILL FACILITIES

§1310-Y. Establishment of commercial landfill facility program

1. Establishment. A commercial landfill facility program is established to govern the establishment and operation of all commercial landfill facilities established, constructed or substantially expanded after December 31, 1991. Any person who has applied for a permit prior to January 1, 1992, to establish, construct or substantially expand a commercial landfill facility is not subject to this subchapter. Owners of commercial landfill facilities who, after December 31, 1991, seek to substantially expand the facility, as defined in section 1303-C, subsection 37, are subject to this subchapter for the expanded portion of the facility.

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

§1310-Z. Conveyance of land for commercial landfill facilities

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

2. Lease agreement. The lease agreement must specify that for an annual rent of \$50, the lessee must be allowed to use the land for the development and operation of a commercial landfill facility. The lease agreement must provide that the lessor or any person authorized by the lessor has at all times the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the purposes of this subchapter. The lessee remains fully liable for all damages, losses, personal injury or property damage that may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, financial or health and safety requirements as required by applicable law and rules. The State, as lessor, is immune from liability except as otherwise provided by law. The lease is transferable with the written consent of the lessor and the

2 consent may not be unreasonably withheld. In the case of a
4 transfer of the lease, the transferee is subject to all terms and
6 conditions that the State considers necessary to ensure
8 compliance with applicable laws and rules. If the lessee or any
10 successor in interest fails in any material respect to comply
12 with any applicable law, rule or permit condition, or with any
14 term or condition of the lease, the State may terminate the lease
after giving the lessee written notice specifically describing
the failure to comply and upon providing the lessee a reasonable
time to comply. If the lessee does not effect compliance within
the reasonable time allowed, the State may reenter and take
possession of the premises. The lease agreement must provide
that not more than 10% of the landfill facility be used for
disposal of solid waste generated beyond the borders of the State.

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

24 4. Termination of lease. In the event of changes in laws
26 or rules applicable to the facility that make continued operation
28 by the lessee impossible or economically infeasible, the lessee
30 has the right to terminate the lease upon giving the State
32 reasonable notice of not less than 6 months, in which case the
34 lessor has the right to secure a substitute lessee and operator.
36 In the event of termination of the lease by the lessor as
provided in subsection 2, or by the lessee as provided in this
subsection, the lessee must 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 has no
obligation to secure a substitute lessee or operator and may
require the lessee to close the facility permanently.

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STATEMENT OF FACT

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44 This bill requires each new commercial landfill facility to
46 give its land to the State in exchange for a lease arrangement
48 that 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.