

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1205, L.D. 1761, Bill, "An Act to Limit Liability for Participants in Recycling Programs"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

'Sec. 1. 14 MRSA §159-B is enacted to read:

§159-B. Limited liability for recycling activities by municipalities and regional associations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Premises" means improved and unimproved lands upon which recycling activities are conducted.

B. "Recycling activities" means collection or separation or both of materials in containers:

(1) Owned by a municipality or regional association as defined in Title 38, section 1303-C, subsection 24; and

(2) Located on the premises of the owner, lessee or occupant under an agreement between the municipality or regional association and the owner, lessee or occupant of the premises.

2. No remuneration. The owner, lessee or occupant of the premises may not receive any remuneration from the municipality or regional association for allowing recycling activities to be conducted on the premises.

2 3. Limited liability. An owner, lessee or occupant of the
4 premises is not liable for personal injury, property damage or
6 death caused by recycling activities within 20 feet of the
8 containers used in recycling activities. The containers used in
10 recycling activities are considered other machinery or equipment,
12 whether mobile or stationary, under Title 14, section 8104-A,
14 subsection 1, paragraph G for which the municipality or regional
association is liable as provided by the Maine Tort Claims Act.

12 4. Limitations. This section does not limit any liability
14 that may otherwise exist for a willful or malicious failure to
guard or warn against a dangerous condition on the premises
related to the recycling activities.

16 5. No duty created. Nothing in this section creates a duty
18 of care or ground of liability for injury to a person or property.

20 6. Costs and fees. The court may award any direct legal
22 costs, including reasonable attorney's fees, to an owner, lessee
or occupant who is found not to be liable for injury to a person
or property pursuant to this section.

24 7. Repeal. This section is repealed on July 15, 1994.

26 **Sec. 2. 38 MRSA §2184, sub-§3 is enacted to read:**

28 3. Recycling activities; limited liability. When the
30 owner, lessee or occupant of premises as defined in Title 14,
32 section 159-B undertakes recycling activities, as defined in
Title 14, section 159-B on the premises, liability is limited as
provided in Title 14, section 159-B.'

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

38 **FISCAL NOTE**

40 This bill relieves participants in recycling programs of
42 liability for property damage and personal injury caused by the
44 collection or separation or both of materials on their premises
46 when those parties are participating in municipal and regional
48 association recycling programs. The additional work load and
administrative costs associated with a minimal number of
additional cases filed throughout the court system to determine
liability will be absorbed within the budgeted resources of the
Judicial Department.'

50 **STATEMENT OF FACT**

52 This amendment replaces the bill. It clarifies the scope of
54 the bill by limiting the definition of premises to the improved
and unimproved lands upon which recycling activities are

COMMITTEE AMENDMENT "A" to H.P. 1205, L.D. 1761

2 conducted. The owner, lessee or occupant of the premises is not
liable for personal injury, death or property damage caused by
4 recycling activities within 20 feet of the recycling containers.
In addition, this amendment specifically recognizes that a
6 container used in the provision of recycling activities is "other
machinery or equipment, whether mobile or stationary," for which
8 the municipality or regional association that owns the container
is liable under the Maine Tort Claims Act. The limited liability
10 applies only to those land owners, lessees or occupants who
receive no remuneration for allowing the containers on the
property.

12 This amendment retains the emergency preamble and clause,
14 and adds a repeal date of July 15, 1994. This automatic repealer
gives supporters of the limited liability incentive to
16 demonstrate to the Legislature that the limitation helps
municipalities and regional associations carry out their
18 recycling responsibilities.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
(6/6/91) (Filing No. H-585)