

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1761

H.P. 1205

House of Representatives, May 1, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Judiciary suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative RICHARDSON of Portland.

Cosponsored by Representative LORD of Waterboro, Senator CLARK of Cumberland and Representative PARADIS of Augusta.

STATE OF MAINE

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

An Act to Limit Liability for Participants in Recycling Programs.

(AFTER DEADLINE)

(EMERGENCY)



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

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6 Whereas, to encourage the statewide recycling effort, it is
essential that this legislation be effective before the
expiration of the 90-day period; and

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10 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
12 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

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

18 **§159-B. Limited liability for recycling activities**

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

24 **A. "Premises"** means improved and unimproved lands, private
26 roads and any buildings or structures on those lands.

28 **B. "Recycling activities"** means collection or separation or
30 both of materials by an owner, lessee or occupant of the
32 premises, in containers owned or provided by a municipality
34 or regional association as defined in Title 38, section
36 1303-C, subsection 24 under an agreement with the
38 municipality or regional association and without
40 remuneration from the municipality or regional association
42 for the collection or separation.

44 **2. Limited liability.** An owner, lessee or occupant of the
46 premises is not liable for personal injury or property damage
48 caused by recycling activities on those premises.

50 **3. Limitations.** This section does not limit the liability
52 that otherwise exists for a willful or malicious failure to guard
or warn against a dangerous condition on the premises related to
the recycling activities.

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

5. Costs and fees. The court shall award any direct legal
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.

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

3. Recycling activities; limited liability. When the owner, lessee or occupant of premises as defined in Title 14, 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.

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

STATEMENT OF FACT

The State, by establishment of the Maine Waste Management Agency, Public Law 1989, chapter 585, strongly encourages municipalities to meet the state goals of recycling, by January 1, 1992, by recycling 25% of the municipal solid waste generated each year. Under current law, municipalities are encouraged to meet recycling goals set by Public Law 1989, chapter 585 through their own efforts or through the efforts of regional associations and are authorized to contract with any persons to carry out their duties for the recycling of materials.

Owners and operators of churches, hospitals, grocery stores, supermarkets, neighborhood variety stores and other private business are, however, unwilling to provide facilities for the collection or separation or both of materials for recycling by municipalities because of potential liability. To encourage participation of these parties in municipal and regional association recycling programs and to assist municipalities in meeting the state goals, this bill relieves these parties of liability for property damage and personal injury caused by the collection or separation or both of materials on their premises when these parties use containers owned or provided by a municipality or regional association, have entered into agreements with the municipality or regional association to undertake these "recycling activities" and are not receiving payment for those activities. The exception to the general rule of immunity is for willful or malicious failure to guard against a dangerous condition on the premises that is related to the recycling activities.