

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1873

H.P. 1296

House of Representatives, May 16, 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 LORD of Waterboro.

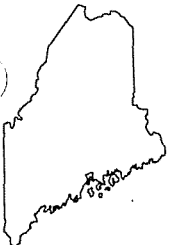
Cosponsored by Representative SPEAR of Nobleboro and Representative JACQUES of Waterville.

STATE OF MAINE

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

An Act to Correct Errors and Clarify Provisions in the Solid Waste Laws.

(EMERGENCY)



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

Whereas, the tax filing deadline will occur before the expiration of the 90-day period; and

Whereas, this legislation pertains to that tax filing period; and

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,

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

Sec. 1. 36 MRSA §2526, sub-§1, ¶A-1 is enacted to read:

A-1. "Investment credit base of equipment" means the total original basis of the equipment for federal income tax purposes, adjusted to exclude all architectural and engineering fees, site survey fees, legal expenses, development fees and insurance premiums of the taxpayer of equipment placed in service for the first time in this State by the taxpayer or another person during the tax year for which the credit is claimed.

Sec. 2. 36 MRSA §2526, sub-§1, ¶C, as enacted by PL 1989, c. 927, §1, is amended to read:

C. "Waste reduction, reuse or recycling equipment" means structures, machinery, equipment or devices, singly or in combination, designed and required to reduce solid waste generated by the employing unit or to separate, process, modify, convert, treat or repair solid waste generated within the State so that component materials or substances or recoverable resources may be used as a raw material or for productive use and includes:

(1) Vehicles designed and dedicated exclusively for the collection of source-separated municipal solid waste generated within the State for the purpose of recycling;

(2) Add-ons or trailers designed to modify collection vehicles and dedicated to sorting, separating and transporting collected wastes generated within the State that are held for the purpose of recycling; or

2 (3) Containers for the source separation and temporary
4 storage of recyclable wastes generated within the State.

6 "Waste reduction, reuse or recycling equipment" does not
8 include structures, machinery, equipment or devices used to
burn solid waste.

10 **Sec. 3. 36 MRSA §2526, sub-§2**, as enacted by PL 1989, c. 927,
§1, is amended to read:

12 **2. Credit allowed.** A taxpayer constituting an employing
14 unit that purchases and uses, or purchases and leases to a
16 another person for use by that person at a fixed facility that
separates, processes, converts or treats solid waste intended for
18 sale by that person, any waste reduction, reuse or recycling
equipment, ~~---or---other---equipment~~ used exclusively in the
20 implementation of a solid waste reduction, reuse or recycling
program, is entitled to a credit against the tax imposed by this
22 Part equal to 30% of the cost investment credit base of that
equipment. ~~"Cost--of--the--equipment"--means--the--original--basis,~~
24 ~~without--adjustment,--of--the--equipment--for--federal--income--tax~~
~~purposes--exclusive--of--all--architectural--and--engineering--fees,~~
~~site--survey--fees,--legal--expenses,--development--fees--and--insurance~~
~~premiums--that--are--included--in--the--basis--of--the--equipment--for~~
26 ~~federal--income--tax--purposes.~~

28 **Sec. 4. 36 MRSA §2526, sub-§3**, as enacted by PL 1989, c. 927,
§1, is amended to read:

30 **3. Eligible machinery and equipment.** Purchases eligible
32 for the credit allowed under this section include structures,
34 ~~machinery--equipment--and--devices~~ waste reduction, reuse or
recycling equipment used to reduce, reuse or recycle solid waste,
at least 90% of which is generated within the State. A
36 certificate that the ~~structures,--machinery,--equipment--and--devices~~
qualify waste reduction, reuse or recycling equipment qualifies
38 for the credit provided for in this section from the Maine Waste
Management Agency is required before the tax credit may be
40 taken. Machinery and equipment associated with the separation of
wastes prior to incineration are eligible when the Maine Waste
42 Management Agency certifies that the separated wastes are being
recycled.

44 **Sec. 5. 36 MRSA §2526, sub-§4-A** is enacted to read:

46 **4-A. Recapture.** If a taxpayer disposes of equipment for
48 which a credit was claimed within 4 years from the date that the
taxpayer acquired the equipment, the tax imposed under this Part
50 for the taxable year in which the disposition occurs is increased

2 by an amount equal to the amount allowed as a credit in the year
3 of the disposition and all prior years. Any unused credit
4 attributable to the disposed-of equipment is disallowed.

5 Sec. 6. 36 MRSA c. 719, first 2 lines are repealed and the
6 following enacted in their place:

8 CHAPTER 719

10 RECYCLING ASSISTANCE FEE

12 Sec. 7. 36 MRSA §5219-D, sub-§1, ¶A-1 is enacted to read:

14 A-1. "Investment credit base of equipment" means the total
15 original basis of the equipment for federal income tax
16 purposes, adjusted to exclude all architectural and
17 engineering fees, site survey fees, legal expenses,
18 development fees and insurance premiums of the taxpayer of
19 equipment placed in service for the first time in this State
20 by the taxpayer or another person during the tax year for
21 which the credit is claimed.

22 Sec. 8. 36 MRSA §5219-D, sub-§1, ¶C, as enacted by PL 1989,
23 c.927, §6, is amended to read:

24 C. "Waste reduction, reuse or recycling equipment" means
25 structures, machinery, equipment or devices, singly or in
26 combination, designed and required to reduce solid waste
27 generated by the employing unit or to separate, process,
28 modify, convert, treat or repair solid waste generated
29 within the State so that component materials or substances
30 or recoverable resources may be used as a raw material or
31 for productive use and includes:

32 (1) Vehicles designed and dedicated exclusively for
33 the collection of source-separated municipal solid
34 waste generated within the State for the purpose of
35 recycling;

36 (2) Add-ons or trailers designed to modify collection
37 vehicles and dedicated to sorting, separating and
38 transporting collected wastes generated within the
39 State that are held for the purpose of recycling; or

40 (3) Containers for the source separation and temporary
41 storage of recyclable wastes generated within the State.

42 "Waste reduction, reuse or recycling equipment" does not
43 include structures, machinery, equipment or devices used to
44 burn solid waste.

2 **Sec. 9. 36 MRSA §5219-D, sub-§2**, as enacted by PL 1989, c.927,
3 §6, is amended to read:

4
5 **2. Credit allowed.** A taxpayer constituting an employing
6 unit that purchases and uses, or purchases and leases to a
7 another person for use by that person at a fixed facility that
8 separates, processes, converts or treats solid waste intended for
9 sale by that person, any waste reduction, reuse or recycling
10 equipment, ~~---or---other---equipment~~ used exclusively in the
11 implementation of a solid waste reduction, reuse or recycling
12 program, is entitled to a credit against the tax imposed by this
13 Part equal to 30% of the cost investment credit base of that
14 equipment. ~~"Cost-of-the-equipment"--means--the--original--basis,~~
15 ~~without--adjustment,--of--the--equipment--for--federal--income--tax~~
16 ~~purposes--exclusive--of--all--architectural--and--engineering--fees,~~
17 ~~site--survey--fees,--legal--expenses,--development--fees--and--insurance~~
18 ~~premiums--that--are--included--in--the--basis--of--the--equipment--for~~
19 ~~federal--income--tax--purposes.~~

20
21 **Sec. 10. 36 MRSA §5219-D, sub-§3**, as enacted by PL 1989,
22 c.927, §6, is amended to read:

23 **3. Eligible machinery and equipment.** Purchases eligible
24 for the credit allowed under this section include ~~structures,~~
25 ~~machinery--equipment--and--devices~~ waste reduction, reuse or
26 recycling equipment used to reduce, reuse or recycle solid waste,
27 at least 90% of which is generated within the State. A
28 certificate that the ~~structures,--machinery,--equipment--and--devices~~
29 qualify waste reduction, reuse or recycling equipment qualifies
30 for the credit provided for in this section from the Maine Waste
31 Management Agency is required before the tax credit may be
32 taken. Machinery and equipment associated with the separation of
33 wastes prior to incineration are eligible when the Maine Waste
34 Management Agency certifies that the separated wastes are being
35 recycled.

36
37 **Sec. 11. 36 MRSA §5219-D, sub-§4-A** is enacted to read:

38 **4-A. Recapture.** If a taxpayer disposes of equipment for
39 which a credit was claimed within 4 years from the date that the
40 taxpayer acquired the equipment, the tax imposed under this Part
41 for the taxable year in which the disposition occurs is increased
42 by an amount equal to the amount allowed as a credit in the year
43 of the disposition and all prior years. Any unused credit
44 attributable to the disposed-of equipment is disallowed.

45
46 **Sec. 12. 38 MRSA §1382, first ¶**, as enacted by PL 1987, c. 799,
47 §2, is amended to read:

2 Members of the board of trustees shall ~~be~~ are appointed by
the Governor, subject to review by the joint standing committee
4 of the Legislature having jurisdiction over natural resources and
to confirmation by the Legislature. The board of trustees shall
6 ~~consist~~ consists of 7 ~~8~~ members as follows: one member from the
Department of Environmental Protection; one member from the
8 Department of Agriculture, Food and Rural Resources; one member
from the Maine Waste Management Agency; one member from an
environmental interest group; one member from the Maine Waste
10 Water Control Association; one member from the Maine Municipal
Association; one member representing users of sludge or
12 residuals; and one member representing generators of sludge and
residuals.

14
16 **Sec. 13. 38 MRSA §2103, sub-§1, ¶G,** as enacted by PL 1989, c.
585, Pt. A, §7, is amended to read:

18 G. Enter, with the permission of the owner or subject to
Title 4, sections 179 and 180 and during normal working
20 hours, upon any lands, waters and premises in the State for
the purpose of making surveys, soundings, drillings and
22 examinations as it deems determines necessary for the
purpose of this chapter;

24
26 **Sec. 14. 38 MRSA §2132, sub-§2,** as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

28 2. **Goal revision.** The ~~effice~~ agency shall recommend
revisions, if appropriate, to the state recycling goal and shall
30 establish a waste reduction goal. The ~~effice~~ agency shall submit
its recommendations and any implementing legislation to the joint
32 standing committee of the Legislature having jurisdiction over
natural resource matters by January 1, 1993.

34
36 **Sec. 15. 38 MRSA §2133, sub-§1, ¶¶G and H,** as enacted by PL
1989, c. 585, Pt. A, §7, are amended to read:

38 G. Coordination of the recycling program with overall waste
management; and

40 H. Consistency with the state plan, when adopted, and

42 **Sec. 16. 38 MRSA §2133, sub-§1, ¶I** is enacted to read:

44 I. Composting of organic fractions of the municipal solid
46 waste stream.

48 **Sec. 17. 38 MRSA §2133, sub-§3,** as enacted by PL 1989, c. 585,
Pt. A, §7, is amended to read:

2 3. **Recycling capital investment grants.** The office may
3 make grants to eligible municipalities and regional
4 associations, sanitary districts and sewer districts for the
5 construction of public recycling facilities and the purchase of
6 recycling equipment. The office may establish requirements for
7 local cost sharing of up to 25% of the total grant amount. The
8 office shall give preference to recycling programs that require
9 the participation of the waste generators served.

10 **Sec. 18. 38 MRSA §2177,** as affected by PL 1989, c. 890, Pt.
11 A, §40 and amended by Pt. B, §293, is further amended to read:

12
13 Upon written request from persons owning land contiguous to
14 a solid waste landfill approved under subchapter IV, the operator
15 of the landfill shall have quarterly sampling and analysis
16 conducted of private water supplies used by the requestors for
17 drinking water. The sampling and analysis must be conducted in a
18 manner specified by and meet that meets criteria developed by the
19 department.

20
21 Any person owning or operating a solid waste landfill that
22 adversely affects a public or private water supply by pollution,
23 degradation, diminution or other means that result in a violation
24 of the state drinking water standards as determined by the
25 ~~commissioner~~ department shall restore the affected supply at ~~no~~
26 ~~cost to the owner or replace the affected supply or~~ replace it
27 with an alternative source of water that is of like quantity and
28 quality to the original supply at no cost to the owner.

29 **Sec. 19. Retroactivity.** Sections 1 to 11 apply retroactively to
30 January 1, 1990.

31
32 **Emergency clause.** In view of the emergency cited in the
33 preamble, this Act takes effect when approved.

34
35
36 **STATEMENT OF FACT**

37
38 This bill amends the solid waste laws enacted in 1989. The
39 solid waste reduction investment tax credit is amended to clarify
40 the eligibility of equipment and to establish a recapture
41 provision for equipment that is held for less than 4 years.
42 These changes are retroactive to January 1, 1990.

43
44 This bill adds a representative from the Maine Waste
45 Management Agency to the Board of Trustees of the Maine Sludge
46 and Residuals Utilization Research Foundation.

47
48 This bill clarifies the Maine Waste Management Agency's
49 authority to enter private property without permission of owner,
50

2 subject to the Maine Revised Statutes, Title 4, sections 179 and
180, which govern administrative search procedures.

4 This bill clarifies that the agency, rather than the Office
6 of Waste Reduction and Recycling, adopts waste reduction goals
and recommends revisions of the recycling goals to the
8 Legislature.

10 This bill includes composting as an eligible activity for
12 financial assistance, since it is considered a form of recycling
and also extends eligibility for grant assistance to sanitary and
sewer districts.

14 Finally, the bill amends the host community benefits section
16 of the solid waste laws by clarifying that the water supply
monitoring requirement applies to solid waste landfills.