

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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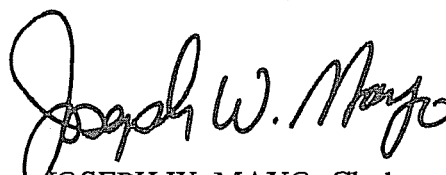
H.P. 756

House of Representatives, March 25, 1993

**An Act to Amend and Clarify the Solid Waste Management Laws.**

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Submitted by the Maine Waste Management Agency pursuant to Joint Rule 24.  
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative MARSH of West Gardiner.  
Cosponsored by Senator LUDWIG of Aroostook and  
Representative: JACQUES of Waterville.

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

2  
4       **Sec. 1. 32 MRSA §1734, sub-§2**, as amended by PL 1991, c. 177,  
§1 and affected by §2, is further amended to read:

6       **2. Health and safety requirements; feasibility;**  
7 **post-consumer materials.** The manufacturer, supplier or  
8 distributor petitions the agency for an exemption for a  
particular package or packaging component and the agency grants  
10 an exemption for one or more of the following reasons.

12       A. The package or packaging component contains lead,  
14 cadmium, mercury or hexavalent chromium added in the  
manufacturing, forming, printing or distribution process in  
16 order to comply with health or safety requirements of state  
or federal law.

18       B. There is no feasible alternative to the use of lead,  
20 cadmium, mercury or hexavalent chromium in the package or  
packaging component. For the purposes of this section, "no  
22 feasible alternative" means a use in which the regulated  
substance is essential to the protection, safe handling or  
24 function of the package's contents.

26       C. The addition of post-consumer materials causes the  
package or packaging component to exceed the maximum  
28 concentration levels set forth in section 1733, subsection  
3.

30 For packages or packaging components exempted under paragraph A  
or B, a 2-year exemption may be granted and that exemption may be  
32 renewed for an additional 2 years. An exemption granted under  
paragraph C expires 4 6 years after the effective date of this  
34 chapter; or

36       **Sec. 2. 32 MRSA §1735**, as enacted by PL 1989, c. 849, §1, is  
amended to read:

38       **§1735. Certificate of compliance**

40       A certificate of compliance is a document developed by a  
42 manufacturer and ~~filed with the agency~~ furnished to its  
purchasers that attests that one or more packages or packaging  
44 components ~~meets~~ meet the standards established in section 1733  
or ~~is~~ are exempt under the provisions of section 1734. If  
46 compliance is achieved under the exemptions provided in section  
1734, the certificate must state the specific basis upon which  
48 the exemption is claimed. A certificate of compliance must be  
signed by an authorized official of the manufacturer. A  
50 certificate of compliance may cover more than one type of package  
or packaging component as long as they are separately identified.  
52

2 1. **New or reformulated packaging.** If the manufacturer  
reformulates or creates a new package or packaging component, the  
4 manufacturer shall ~~provide the agency~~ furnish its purchasers with  
an amended or new certificate of compliance for the reformulated  
6 or new package or packaging component.

8 2. **Presentation of certificates.** Each manufacturer shall  
furnish the agency, at its request, with ~~an original~~ a copy of  
10 any certificate of compliance and each manufacturer or supplier  
shall furnish, at the agency's request, copies of a certificate  
12 of compliance for distribution to the public.

14 **Sec. 3. 38 MRSA §2123, sub-§7**, as enacted by PL 1989, c. 585,  
Pt. A, §7, is repealed.

16 **Sec. 4. 38 MRSA §2141**, as amended by PL 1991, c. 644, §§2 to  
4, is further amended to read:

18 **§2141. Waste reduction and recycling labeling program**

20  
22 By February 1, 1993, the agency shall adopt rules  
establishing a waste reduction and recycling labeling program.  
24 The rules must include recycling emblems, standards for the use  
of the recycling emblems and standards for the use of the terms  
"reusable," "recyclable," "recycled" and "recycled content." To  
26 the fullest extent possible, emblems and standards adopted by the  
agency under this section must be consistent with emblems and  
28 standards adopted by the Northeast Recycling Council of the  
Council of State Governments and standards adopted by other  
30 northeastern states.

32 By January 1, 1993, the agency shall report to the joint  
standing committee of the Legislature having jurisdiction over  
34 energy and natural resources matters on rule-making activities  
undertaken pursuant to this section.

36  
38 By February 1, 1994, the agency shall adopt rules  
establishing standards for the use of the terms "compostable" and  
"biodegradable."

40  
42 **1. Applicability.** After July 1, 1993, a person may not use  
the recycling emblem or the terms "reusable," "recyclable,"  
44 "recycled" and "recycled content" on a package or product that is  
sold or offered for sale, or in the promotion or advertisement of  
46 a package or product, unless that package or product conforms to  
the standards in the labeling program adopted by the agency under  
48 this section.

50 After July 1, 1994, a person may not use the recycling emblem or  
the terms "compostable" and "biodegradable" on a package or  
product that is sold or offered for sale, or in the promotion or

2 advertisement of a package or product, unless that package or  
3 product conforms to the standards in the labeling program adopted  
4 by the agency under this section.

5  
6 2. **Statement of fact.** A person may use the term  
7 "reusable," "recyclable," "recycled" or "recycled content,"  
8 "compostable" or "biodegradable" on a package or product that  
9 does not meet the standards adopted by the agency if the term is  
10 used in a properly qualified statement of fact for the purpose of  
11 conveying accurate information to consumers about the package or  
12 product and the term is displayed no more prominently than the  
13 other words in the statement of fact.

14 3. **Penalty.** A violation of this section is a violation of  
15 Title 5, chapter 10, the Maine Unfair Trade Practices Act.

16 **Sec. 5. 38 MRSA c. 24, sub-c. V, first 2 lines** are repealed and the  
17 following enacted in their place:

18  
19 **SUBCHAPTER V**

20  
21 **HOST COMMUNITY COMPENSATION and FACILITY OVERSIGHT**

22  
23 **Sec. 6. 38 MRSA §2171, first ¶,** as enacted by PL 1989, c. 585,  
24 Pt. A, §7, is amended to read:

25  
26 The municipal officers of each municipality identified by  
27 the Facility Siting Board as a proposed potential site for a  
28 solid waste disposal facility ~~or a facility which produces~~  
29 ~~refuse-derived fuel under this chapter~~ and each contiguous  
30 municipality which that may be affected by the construction or  
31 operation of that facility shall jointly establish a single  
32 citizen advisory committee within 60 days of notification  
33 pursuant to section 2155.

34  
35 **Sec. 7. 38 MRSA §2171, sub-§3, ¶C,** as enacted by PL 1989, c.  
36 585, Pt. A, §7, is amended to read:

37  
38 C. Provide the agency project developer and department with  
39 any alternative contract provisions, permit conditions,  
40 plans or procedures it deems ~~considers~~ appropriate; and

41  
42 **Sec. 8. 38 MRSA §2171, sub-§3, ¶D,** as affected by PL 1989, c.  
43 890, Pt. A, §40 and amended by Pt. B, §291, is further amended to  
44 read:

45  
46 D. Serve as a liaison between the community and the agency,  
47 project developer or the commissioner to facilitate  
48 communications during the development and operation of the  
49 facility, and provide residents with updated information  
50 about the project, including providing explanations of any  
51 technical terms.

2           **Sec. 9. 38 MRSA §2172**, as enacted by PL 1989, c. 585, Pt. A,  
§7, is amended to read:

4           **§2172. Dispute resolution**

6           A host municipality may establish a process, including, but  
8           not limited to, negotiation, mediation and arbitration to resolve  
disputes and to negotiate additional rights and benefits ~~relating~~  
10           related to the siting and operation of a solid waste disposal or  
~~refuse-derived-fuel-processing~~ facility within the municipality.  
The citizen advisory committee shall must be consulted and shall  
12           assist in the development and implementation of any process  
established under this section. At the option of the  
14           municipality, the Chair of the Board of Environmental Protection  
may appoint a neutral mediator to resolve disputes. The  
16           municipality ~~shall be~~ is eligible for grants from the agency to  
fund dispute resolution programs under this section related to  
18           the siting and operation of a solid waste disposal facility owned  
or operated by the agency.

20           **Sec. 10. 38 MRSA §2175-A**, as enacted by PL 1991, c. 794, §7,  
22           is amended to read:

24           **§2175-A. Property value offset**

26           Owners of property whose the value of which has been  
affected by an ~~agency-operated or agency-approved~~ a solid waste  
28           disposal facility licensed under chapter 13 owned, operated or  
approved by the agency are eligible for reimbursement for loss in  
30           property value directly attributable to the construction and  
operation of the facility. Reimbursement for such losses must be  
32           paid by the facility owner or operator. The agency shall adopt  
rules to establish the formula and procedure for reimbursement,  
34           including, without limitation, definition of the impact area, a  
process for establishing baseline real estate values, a time  
36           frame within which the property value offset program will be in  
effect and an accounting of real estate trends in the area.

38           **Sec. 11. 38 MRSA §2176, first ¶ and sub-§1**, as enacted by PL  
40           1989, c. 585, Pt. A, §7, are amended to read:

42           In addition to payment in lieu of taxes provided in section  
2105, the agency shall make impact payments to a municipality in  
44           which an agency-owned solid waste ~~landfill~~ disposal facility is  
located or, in the case of an unorganized territory, to the State  
46           Tax Assessor upon request by the community involved or by the  
State Tax Assessor. The agency shall base its impact payments on  
48           measurable criteria including, without limitation:

50           1. **Roads.** Improvement, maintenance and repair of local  
roads directly affected by traffic to and from an agency-owned  
52           ~~landfill~~ disposal facility;



2 3. It amends the voluntary waste reduction and recycling  
4 labeling program to include the terms, "compostable" and  
6 "biodegradable." Both terms will be defined by agency rulemaking  
and the use of the terms to promote packaging and products is  
voluntary.

8 4. It amends the host community benefits provisions of the  
10 solid waste management laws by clarifying that the provisions  
12 apply to solid waste disposal facilities. The provisions for  
14 citizen advisory committees and impact payments are so  
16 clarified. The dispute resolution provision is clarified to  
18 limit the funding for dispute resolution grants to programs  
related to the siting and operation of a solid waste disposal  
facility owned or operated by the agency. The property value  
offset provision is amended to clarify that reimbursements for  
such losses are to be paid by the facility owner or operator.  
The water supply monitoring provision is limited to solid waste  
disposal facilities owned or operated by the agency.

20 5. It clarifies that the imported municipal solid waste fee  
22 is assessed on municipal solid waste going to commercial solid  
waste disposal facilities.