

	L.D. 1757
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	DATE: $4/7/94$ (Filing No. S- 588)
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10	STATE OF MAINE SENATE
10	116TH LEGISLATURE
12	SECOND REGULAR SESSION
14	Q
	SENATE AMENDMENT " ${\mathcal B}$ " to COMMITTEE AMENDMENT "A" to H.P.
16	1302, L.D. 1757, Bill, "An Act to Amend Certain Laws Pertaining
·	to the Department of Environmental Protection, Bureau of
18	Hazardous Materials and Solid Waste Control"
20	Amend the amendment in section 1 by striking out all of
20	subsection 4 (page 2, lines 10 to 33 in amendment) and inserting
22	in its place the following:
24	'4. Settlement. A person who has resolved that person's
	<u>liability to the State in an administrative or judicially</u>
26	approved settlement and is implementing or has fully implemented
20 [°]	that settlement pursuant to its terms is not liable for claims by
28	<u>other potentially liable persons regarding response actions, response costs or damages, including without limitation natural</u>
30	resource damages, addressed in the settlement. The settlement
	does not discharge any other potentially liable persons unless
32	its terms so provide. The protection afforded by this subsection
	includes protection against contribution claims and all other
34	types of claims under state law that may be asserted against the
	settling party for recovery of response costs or damages incurred
36	or paid by another potentially liable person, if those actions,
38	<u>costs or damages are addressed in the settlement, but does not include protection against claims based on contractual</u>
50	<u>indemnification or other express contractual agreements to pay</u>
40	the costs or damages. A potentially liable person who commences
	an action against a person who is protected from suits under this
42	subsection is liable to the person against whom the claim is
	brought for all reasonable costs of defending against the claim,
44	including all reasonable attorney's and expert witness fees.
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SENATE `AMENDMENT

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SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 1302, L.D. 1757

This section is not intended to create a right to contribution or other cause of action or to make a person liable to pay a portion of another person's response costs, damages or civil penalties.'

Further amend the amendment by inserting after section 4 the following:

'Sec. 5. 38 MRSA §1310-C, sub-§6, as enacted by PL 1989, c. 870, §2, is amended to read:

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6. Contractor liability. Except as provided in subsection
7, a contractor that closes a municipal solid waste landfill in compliance with a closure plan approved by the department or in
compliance with the procedures and standards established in section 1310-E-1 is not liable for the death of or injury to
persons or for property damages resulting from contamination or a discharge of pollutants if:

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A. The discharge is at or from the landfill site or the contamination resulted from a discharge at or from the landfill site; and

B. The contamination or discharge is related to on-site landfill closure activities.'

Further amend the amendment in Part B by striking out all of section 1 and inserting in its place the following:

'Sec. B-1. 38 MRSA §1310-N, sub-§1, ¶C, as enacted by PL 1987, 30 c. 517, §25, is amended to read:

C. In the case of a disposal facility, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.'

Further amend the amendment in Part C in section 12 in that part designated "<u>\$1310-E-1.</u>" in subsection 2 by striking out all of paragraph B (page 10, lines 48 to 50 and page 11, lines 1 to 13 in amendment) and inserting in its place the following:

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46 48 '<u>B. The landfill meets one of the following criteria, in</u> which case the landfill must close in accordance with subsection 3:

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SENATE AMENDMENT """ to COMMITTEE AMENDMENT "A" to H.P. 1302, L.D. 1757

(1) A drinking water supply well is located within 1,000 feet of the solid waste boundary of the landfill;

(2) The public water supply well is located within 10,000 feet of the solid waste boundary of the landfill and in the same aquifer, for landfills located on a sand and gravel aquifer as mapped by the Maine Geological Survey:

(3) An enclosed building is located within 100 feet of the solid waste boundary of the landfill; or

(4) The landfill has received hazardous industrial wastes.'

Further amend the amendment by renumbering the sections to read consecutively.

STATEMENT OF FACT

The amendment deletes a grammatical change that might be interpreted as a substantive change and clarifies language regarding landfill closure.

The amendment also narrows the provision regarding immunity for persons who settle with the State to prevent claims by other potentially liable parties, not all persons.

Finally, the amendment adds a provision regarding liability of contractors for municipal landfill closures. The committee amendment requires municipal landfills to be closed in accordance with plans approved by the Department of Environmental Protection or with specific minimum capping requirements set forth in the law. Current law provides immunity from certain liability for contractors who close municipal landfills in compliance with department-approved plans. This amendment extends that immunity to contractors who close municipal landfills in compliance with the specific capping procedures set forth in the law.

SPONSORED BY: (Senator LAWRENCE)

COUNTY: York

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SENATE AMENDMENT

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