

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 1302, L.D. 1757, Bill, "An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control"

Amend the amendment in section 1 by striking out all of subsection 4 (page 2, lines 10 to 33 in amendment) and inserting in its place the following:

'4. Settlement. A person who has resolved that person's liability to the State in an administrative or judicially approved settlement and is implementing or has fully implemented that settlement pursuant to its terms is not liable for claims by other potentially liable persons regarding response actions, response costs or damages, including without limitation natural resource damages, addressed in the settlement. The settlement does not discharge any other potentially liable persons unless its terms so provide. The protection afforded by this subsection includes protection against contribution claims and all other types of claims under state law that may be asserted against the settling party for recovery of response costs or damages incurred or paid by another potentially liable person, if those actions, costs or damages are addressed in the settlement, but does not include protection against claims based on contractual indemnification or other express contractual agreements to pay the costs or damages. A potentially liable person who commences an action against a person who is protected from suits under this subsection is liable to the person against whom the claim is brought for all reasonable costs of defending against the claim, including all reasonable attorney's and expert witness fees.

SENATE AMENDMENT

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:

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:

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, 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 "§1310-E-1." 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:

'B. The landfill meets one of the following criteria, in which case the landfill must close in accordance with subsection 3:

