

MAINE STATE LEGISLATURE

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No. 935

H.P. 710

House of Representatives, March 1, 2007

An Act To Continue To Ensure the Long-term Capacity of Municipal Landfills

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MAKAS of Lewiston.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: CRAVEN of Lewiston, DUCHESNE of Hudson, EBERLE of South Portland,
HINCK of Portland, KOFFMAN of Bar Harbor, MIRAMANT of Camden, SAMSON of
Auburn, WAGNER of Lewiston.

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

2 **Sec. 1. 38 MRSA §1303-C, sub-§1-C** is enacted to read:

3 **1-C. Bypass.** "Bypass" means any solid waste that is destined for disposal,
4 processing or beneficial use at a solid waste facility but that cannot be disposed of,
5 processed or beneficially used at that facility because of the facility's malfunction,
6 insufficient capacity, inability to process or burn, downtime or any other comparable
7 reason.

8 **Sec. 2. 38 MRSA §1303-C, sub-§6,** as amended by PL 2005, c. 612, §2, is
9 further amended to read:

10 **6. Commercial solid waste disposal facility.** "Commercial solid waste disposal
11 facility" means a solid waste disposal facility except as follows:

12 ~~A.— Beginning January 1, 2007, a solid waste facility owned by a public waste~~
13 ~~disposal corporation under section 1304-B, subsection 5 as long as the public waste~~
14 ~~disposal corporation controls the decisions regarding the type and source of waste~~
15 ~~that is accepted, handled, treated and disposed of at the facility;~~

16 A-2. A solid waste facility that is owned by a public waste disposal corporation
17 under section 1304-B, subsection 5 as long as the public waste disposal corporation
18 controls the decisions regarding the type and source of waste that is accepted,
19 handled, treated and disposed of at the facility and, if the facility is a solid waste
20 landfill, that accepts only waste that is generated within the State;

21 ~~B.— Beginning January 1, 2007 a solid waste facility owned by a municipality under~~
22 ~~section 1305 as long as the municipality controls the decisions regarding the type and~~
23 ~~source of waste that is accepted, handled, treated and disposed of at the facility;~~

24 B-2. A solid waste facility that is owned by a municipality under section 1305 as
25 long as the municipality controls the decisions regarding the type and source of waste
26 that is accepted, handled, treated and disposed of at the facility and, if the facility is a
27 solid waste landfill, that accepts only waste that is generated within the State;

28 ~~C.— Beginning January 1, 2007, a solid waste facility owned by a refuse disposal~~
29 ~~district under chapter 17 as long as the refuse disposal district controls the decisions~~
30 ~~regarding the type and source of waste that is accepted, handled, treated and disposed~~
31 ~~of at the facility;~~

32 C-2. A solid waste facility that is owned by a refuse disposal district under chapter
33 17 as long as the refuse disposal district controls the decisions regarding the type and
34 source of waste that is accepted, handled, treated and disposed of at the facility and, if
35 the facility is a solid waste landfill, that accepts only waste that is generated within
36 the State;

37 ~~D.— Beginning January 1, 2007, a solid waste facility owned and controlled by the~~
38 ~~office under chapter 24;~~

1 D-2. A solid waste facility that is owned and controlled by the office under chapter
2 24 and, if the facility is a solid waste landfill, that accepts only waste that is generated
3 within the State;

4 E. A solid waste facility owned and controlled by a single entity that generates at
5 least 85% of the solid waste disposed of at the facility, except that the facility may
6 accept from other sources, on a nonprofit basis, an amount of solid waste that is no
7 more than 15% of all solid waste accepted on an annual basis. For purposes of this
8 paragraph, "single entity" means an individual, partnership, corporation or limited
9 liability company that is not engaged primarily in the business of treating or
10 disposing of solid waste or special waste. This paragraph does not apply if an
11 individual partner, shareholder, member or other ownership interest in the single
12 entity disposes of waste in the solid waste facility. A waste facility receiving ash
13 resulting from the combustion of municipal solid waste or refuse-derived fuel is not
14 exempt from this subsection solely by operation of this paragraph; or

15 F. A private corporation that accepts material-separated, refuse-derived fuel as a
16 supplemental fuel and does not burn waste other than its own.

17 ~~Until January 1, 2007, for~~ For purposes of this subsection, "waste that is generated
18 within the State" includes residue and bypass generated by incineration, processing and
19 recycling facilities within the State.

20 **Sec. 3. Legislative findings.** Maine's municipalities have the obligation to
21 provide for the disposal of the solid waste generated by their citizens and businesses.
22 Public waste disposal corporations and refuse disposal districts are formed by
23 municipalities to provide for the disposal of the solid waste generated within the
24 geographical boundaries of the participating municipalities. Municipal and public
25 regional landfills, however, are becoming increasingly limited in capacity and expensive
26 to Maine's people. The creation of new municipal and public regional landfills is often
27 prohibitively expensive. The Legislature, in exercising its powers over municipalities,
28 public waste disposal corporations and refuse disposal districts as instrumentalities and
29 creations of the State, seeks to maximize the use of these landfills for the benefit of the
30 people of the State and to prevent their potential diversion to uses by others. This law
31 will ensure that municipal and public regional landfills are used for these public purposes.

32 **Sec. 4. Retroactivity.** This Act applies retroactively to January 1, 2007.

33 **SUMMARY**

34 Public Law 2005, chapter 612 amended the Maine Hazardous Waste, Septage and
35 Solid Waste Management Act to exempt, until January 1, 2007, publicly owned solid
36 waste landfills from the definition of "commercial solid waste disposal facility" as long as
37 that facility accepted only waste that is generated within the State. This bill continues the
38 exemption retroactive to January 1, 2007.