

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1476

S.P. 551

In Senate, May 7, 2009

An Act Regarding the Transfer of Licenses for Energy Recovery Facilities

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HOBBS of York.
Cosponsored by Representative BEAUDETTE of Biddeford and
Senators: GOODALL of Sagadahoc, SIMPSON of Androscoggin, SULLIVAN of York,
Representatives: BEAUDOIN of Biddeford, CASAVANT of Biddeford, DUCHESNE of
Hudson, PILON of Saco, VALENTINO of Saco.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation prohibits the transfer of a solid waste license upon the
4 change in ownership of a facility that incinerates solid waste, and requires that the new
5 owners of the facility apply for a new license; and

6 **Whereas,** it is essential that this legislation become law immediately in order to
7 ensure that the host communities of certain solid waste facilities retain certain rights upon
8 the change of ownership of those facilities; and

9 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
10 the meaning of the Constitution of Maine and require the following legislation as
11 immediately necessary for the preservation of the public peace, health and safety; now,
12 therefore,

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

14 **Sec. 1.** 38 MRSA §1310-Q, as amended by PL 2005, c. 612, §3, is further
15 amended to read:

16 **§1310-Q. Transfer of license**

17 **1. Transfer.** No A person may not transfer a license issued pursuant to this Title
18 without the transfer of the license being approved by the department prior to transfer of
19 the ownership of the property, facility or structure that constitutes or is part of the solid
20 waste disposal facility. The Except as provided in subsection 2, the department, at its
21 discretion, may require that the proposed new owner of the facility apply for a new
22 license or may approve the transfer of the existing license upon a satisfactory showing
23 that the new owner can abide its terms and conditions and will be able to comply with the
24 provisions of this Title, except that the department may not approve the transfer of an
25 existing license of a municipal solid waste disposal facility to a private entity. The
26 department shall consider the extent to which the disposal facility was sited and
27 developed and is currently operated to meet the capacity needs of municipalities within a
28 specific geographic region. The department shall approve the transfer of license when, in
29 addition to all other requirements of this Title, the applicant has demonstrated that:

30 A. The facility will continue to be operated to meet the municipal disposal capacity
31 needs for which the facility was sited and developed and for which it is currently
32 operated;

33 B. The applicant has made substantially equivalent, alternative provisions to satisfy
34 these disposal capacity needs; or

35 C. These disposal capacity needs no longer exist.

36 **2. Transfers of solid waste license for a facility that incinerates solid waste.**
37 During the stated term of any waste handling contract between a solid waste facility that
38 incinerates solid waste and its host community, the department may not approve the
39 transfer of a solid waste facility license from the solid waste facility and shall require that

1 the proposed new owner of the solid waste facility apply for a new license. For purposes
2 of this section, any change of owner or operator of the solid waste facility, whether
3 accomplished through sale, merger, lease, assignment or otherwise, is subject to the
4 license requirement set forth in this section.

5 The department may not grant a license for a proposed new owner of a solid waste
6 facility prior to:

7 A. The expiration of a due diligence review period for the host community, which
8 must conclude within 180 days of the date of filing of the application for the new
9 license;

10 B. The receipt of written consent of the host community; and

11 C. A public hearing and review conducted by the board after completion of the due
12 diligence review conducted in accordance with paragraph A.

13 **Sec. 2. Retroactivity.** This Act applies retroactively to April 1, 2009.

14 **Emergency clause.** In view of the emergency cited in the preamble, this
15 legislation takes effect when approved.

16 SUMMARY

17 This bill prohibits the Department of Environmental Protection from approving the
18 transfer of a solid waste facility license during the stated term of a waste handling
19 contract between a solid waste facility that incinerates solid waste and its host
20 community. Under this bill, the department may not grant a new license to the new
21 owner of a solid waste facility until the expiration of a due diligence review period for the
22 host community, the receipt of written consent of the host community and a public
23 hearing and review conducted by the Board of Environmental Protection.