

MAINE STATE LEGISLATURE

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Date: 6/3/19

L.D. 112
(Filing No. H-439)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 94, L.D. 112, Bill, "An Act To Implement Changes to Maine's Solid Waste Laws Pursuant to a Review of the State Waste Management and Recycling Plan"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'PART A

Sec. A-1. 38 MRSA §1303-C, sub-§1-C, as enacted by PL 2007, c. 338, §1 and affected by §5 and enacted by c. 414, §1, is amended to read:

1-C. Bypass. "Bypass" means any solid waste that is destined for disposal, processing or beneficial use at a an operating solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility's temporary malfunction, temporary insufficient capacity, temporary inability to process or burn, or temporary downtime or any other comparable reason. For the purposes of this subsection, "operating solid waste facility" means a licensed solid waste facility that is fully operational at the time that the malfunction, insufficient capacity, inability to process or burn or downtime begins and that intends to resume full operation at the time that the malfunction, insufficient capacity, inability to process or burn or downtime ends.

Sec. A-2. 38 MRSA §2152-A is enacted to read:

§2152-A. State-owned solid waste disposal facilities; purpose, management and operation; disposal of municipal solid waste

1. Purpose of State-owned solid waste disposal facilities. The Legislature finds that the purpose of State-owned solid waste disposal facilities is to ensure that adequate disposal capacity is available for the disposal of solid waste generated within the State through the development of new disposal capacity for anticipated state disposal capacity needs and the operation of existing facilities to address current state disposal capacity needs.

COMMITTEE AMENDMENT

1 2. Consistency with solid waste management hierarchy. The Legislature intends
2 that all aspects of the management and operation of State-owned solid waste disposal
3 facilities be conducted in a manner that maximizes alignment with the solid waste
4 management hierarchy under section 2101.

5 The bureau, the operators of State-owned solid waste disposal facilities and the
6 department shall ensure that the acceptance of waste at State-owned solid waste disposal
7 facilities is consistent with the hierarchy and that options for the management of such
8 waste that represent a higher priority on the hierarchy are not otherwise reasonably
9 available.

10 3. Disposal of municipal solid waste at State-owned solid waste disposal
11 facilities; department authorization criteria; department limitation of disposal. The
12 Legislature intends that the State prioritize the disposal at State-owned solid waste
13 disposal facilities of special wastes for which there are limited disposal options in the
14 State and minimize the disposal at State-owned solid waste disposal facilities of non-
15 bypass, unprocessed municipal solid waste. In accordance with this intent and with the
16 provisions of this chapter and chapter 13, the department may:

17 A. Authorize the land disposal of non-bypass, unprocessed municipal solid waste at a
18 State-owned solid waste disposal facility only when:

19 (1) A specific need for the disposal has been identified by the bureau and the
20 operator of the facility;

21 (2) The disposal is consistent with the solid waste management hierarchy under
22 section 2101, as determined by the department; and

23 (3) Options for the management of the waste that represent a higher priority on
24 the hierarchy are not otherwise reasonably available, as determined by the
25 department; and

26 B. Limit the volume of municipal solid waste disposed of at a State-owned solid
27 waste disposal facility and the duration of such disposal through the imposition of
28 such limitations under the facility's license.

29 **Sec. A-3. 38 MRS §2156-A, sub-§1,** as amended by PL 2011, c. 655, Pt. GG,
30 §43 and affected by §70, is further amended to read:

31 **1. Planning for development.** The bureau, in consultation with the department,
32 shall plan for the development of facilities sufficient to meet anticipated unmet needs for
33 municipal solid waste and special waste identified in the state plan and any revisions to
34 the plan and to serve all geographic areas of the State. ~~The bureau, in consultation with~~
35 ~~the department, may plan for the development of facilities sufficient to meet needs for~~
36 ~~special waste identified in the state plan and any revisions to the plan and to serve all~~
37 ~~geographic areas of the State.~~

38 **PART B**

39 **Sec. B-1. 38 MRS §1310-B, sub-§2,** as amended by PL 2015, c. 250, Pt. C,
40 §10, is further amended to read:

1 **2. Hazardous waste information and information on mercury-added products**
 2 **and electronic devices; chemicals; recyclables.** Information relating to hazardous
 3 waste submitted to the department under this subchapter, information relating to mercury-
 4 added products submitted to the department under chapter 16-B, information relating to
 5 electronic devices submitted to the department under section 1610, subsection 6-A,
 6 information related to priority toxic chemicals submitted to the department under chapter
 7 27 ~~or~~, information related to products that contain the "deca" mixture of polybrominated
 8 diphenyl ethers submitted to the department under section 1609 or information related to
 9 reporting on reportable recyclable materials submitted to the department under section
 10 2145 may be designated by the person submitting it as being only for the confidential use
 11 of the department, its agents and employees, the Department of Agriculture, Conservation
 12 and Forestry and the Department of Health and Human Services and their agents and
 13 employees, other agencies of State Government, as authorized by the Governor,
 14 employees of the United States Environmental Protection Agency and the Attorney
 15 General and, for waste information, employees of the municipality in which the waste is
 16 located. The designation must be clearly indicated on each page or other portion of
 17 information. The commissioner shall establish procedures to ensure that information so
 18 designated is segregated from public records of the department. The department's public
 19 records must include the indication that information so designated has been submitted to
 20 the department, giving the name of the person submitting the information and the general
 21 nature of the information. Upon a request for information, the scope of which includes
 22 information so designated, the commissioner shall notify the submitter. Within 15 days
 23 after receipt of the notice, the submitter shall demonstrate to the satisfaction of the
 24 department that the designated information should not be disclosed because the
 25 information is a trade secret or production, commercial or financial information, the
 26 disclosure of which would impair the competitive position of the submitter and would
 27 make available information not otherwise publicly available. Unless such a
 28 demonstration is made, the information must be disclosed and becomes a public record.
 29 The department may grant or deny disclosure for the whole or any part of the designated
 30 information requested and within 15 days shall give written notice of the decision to the
 31 submitter and the person requesting the designated information. A person aggrieved by a
 32 decision of the department may appeal only to the Superior Court in accordance with the
 33 provisions of section 346. All information provided by the department to the
 34 municipality under this subsection is confidential and not a public record under Title 1,
 35 chapter 13. In the event a request for such information is submitted to the municipality,
 36 the municipality shall submit that request to the commissioner to be processed by the
 37 department as provided in this subsection.

38 **Sec. B-2. 38 MRS §2101-A, sub-§§4 and 5** is enacted to read:

39 **4. Recycling establishment.** "Recycling establishment" means an establishment
 40 engaged in the marketing, brokering or purchasing of reportable recyclable materials
 41 generated in the State. "Recycling establishment" does not include an establishment that
 42 directs all reportable recyclable materials it markets, brokers or purchases to brokers and
 43 purchasers that are located in the State.

44 **5. Reportable recyclable materials.** "Reportable recyclable materials" means any
 45 of the following categories of recyclable materials that are separated from household,
 46 commercial or institutional waste and that are delivered to a recycling establishment for

1 recycling: glass; cardboard, paper and paper products; plastic and plastic products;
2 cartons, laminated materials and other packaging; nonferrous and ferrous metals,
3 including white goods; textiles; and mixed streams of recyclable materials that include
4 any combination of the materials listed in this subsection.

5 **Sec. B-3. 38 MRSA §2124-A, first ¶**, as amended by PL 2017, c. 376, §2, is
6 further amended to read:

7 By January 1, ~~2020~~ 2021 and biennially thereafter, the department shall submit a
8 report to the joint standing committee of the Legislature having jurisdiction over
9 environmental and natural resources matters and the Governor setting forth information
10 on statewide generation of solid waste, statewide recycling rates and available disposal
11 capacity for solid waste.

12 **Sec. B-4. 38 MRSA §2133, sub-§7**, as amended by PL 2011, c. 655, Pt. GG, §33
13 and affected by §70, is further amended to read:

14 **7. Recycling progress reports.** Municipalities shall report ~~annually~~ biennially, on
15 forms provided by the department, on their solid waste management and recycling
16 practices. ~~The annual biennial report must include how much of each type of solid waste~~
17 ~~is generated and how that solid waste is managed~~ identify the options available to
18 residents and businesses within the municipality for managing solid waste, including any
19 provisions for the separate management of reportable recyclable materials and organic
20 waste and the disposal of other municipal solid waste, including construction and
21 demolition debris. The department shall assist ~~municipal reporting~~ municipalities in
22 developing and tracking a municipal or regional recycling rate by developing a municipal
23 waste stream management assessment model. The model must rely on actual waste data
24 whenever possible, but incorporate default generation estimates when needed. Default
25 generation estimates must incorporate factors such as commercial activity, geographical
26 differences and municipal population.

27 **Sec. B-5. 38 MRSA §2145** is enacted to read:

28 **§2145. Recycling reporting**

29 **1. Reporting requirement.** Beginning March 1, 2020 and annually thereafter, a
30 recycling establishment shall report to the department regarding its recycling of
31 reportable recyclable materials generated in the State. The report must be on a form
32 provided by or a format approved by the department and must include:

33 A. The business name, mailing address, physical address, e-mail address, contact
34 person and telephone number of the recycling establishment;

35 B. The amount in tons of each category of reportable recyclable materials, by
36 generator, received by the recycling establishment; and

37 C. The amount in tons of each category of reportable recyclable materials, by
38 destination, shipped by the recycling establishment.

39 The report must specify the quantity of reportable recyclable materials required to be
40 reported under paragraphs B and C delineated into distinct material types to the extent
41 possible. If the report specifies the quantity of reportable recyclable materials as
42 determined using a volume-to-weight conversion formula, the report must include that

1 conversion formula for review and approval by the department. The report may provide
2 an aggregate quantity for multiple locations operated by a recycling establishment as long
3 as the report specifically identifies each location used in determining the aggregate
4 quantity.

5 The department shall establish reporting guidelines to ensure that reportable recyclable
6 materials to be included in a report under this subsection are not counted more than once.

7 2. Data aggregation. The department shall aggregate data contained within the
8 reports submitted under this section for the purpose of determining statewide quantities of
9 reportable recyclable materials recycled.

10 3. Confidentiality. Information submitted to the department pursuant to this section
11 may be designated as confidential by the submitting party in accordance with the
12 provisions of section 1310-B and, if the information is so designated, the provisions of
13 section 1310-B apply.'

14 SUMMARY

15 This amendment replaces the bill, which is a concept draft, and makes the following
16 changes to the State's solid waste management laws.

17 Part A of the amendment:

18 1. Amends a definition in the State's solid waste management laws for the term
19 "bypass";

20 2. Specifies through legislative findings and statements of legislative intent that the
21 purpose, management and operation of State-owned solid waste disposal facilities must
22 be consistent with the solid waste management hierarchy under the Maine Revised
23 Statutes, Title 38, section 2101;

24 3. Stipulates that the Department of Environmental Protection may authorize the land
25 disposal of non-bypass, unprocessed municipal solid waste at State-owned solid waste
26 disposal facilities only when a specific need for the disposal has been identified by the
27 Department of Administrative and Financial Services, Bureau of General Services and the
28 facility operator, the disposal is consistent with the solid waste management hierarchy
29 and options for the management of the waste that represent a higher priority on the
30 hierarchy are not otherwise reasonably available; and

31 4. Authorizes the Department of Environmental Protection to limit the volume of
32 municipal solid waste disposed of at a State-owned solid waste disposal facility and the
33 duration of such disposal through imposition of such limitations under the facility's
34 license.

35 Part B of the amendment:

36 1. Requires that, beginning March 1, 2020 and annually thereafter, a recycling
37 establishment engaged in the marketing, brokering or purchasing of recyclable materials
38 generated in the State report to the department regarding its recycling of such materials;

39 2. Clarifies the existing recycling reporting requirement for municipalities and
40 changes the reporting to biennial rather than annual; and

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- 1 3. Changes the existing due date for the department's report on statewide generation
- 2 of solid waste, recycling rates and available disposal capacity to the joint standing
- 3 committee of the Legislature having jurisdiction over environmental and natural
- 4 resources matters from January 1, 2020 and biennially thereafter to January 1, 2021 and
- 5 biennially thereafter.

FISCAL NOTE REQUIRED
(See Attached)



129th MAINE LEGISLATURE

LD 112

LR 1811(02)

An Act To Implement Changes to Maine's Solid Waste Laws Pursuant to a Review of the State Waste Management and Recycling Plan

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

A(H-439)

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection as a result of changes to the laws governing the management, reduction and recycling of solid waste are anticipated to be minor and can be absorbed within existing budgeted resources.