

MAINE STATE LEGISLATURE

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Date: 2/27/24 Majority

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ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 645, L.D. 1009, "An Act Regarding the Reduction and Recycling of Food Waste"

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

'Sec. 1. 38 MRSA §2101-A, as amended by PL 2019, c. 291, Pt. B, §2, is further amended to read:

§2101-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1-A. Anaerobic digestion. "Anaerobic digestion" means the breakdown of organic material by microorganisms in the absence of oxygen to produce biogas.

3. Bureau. "Bureau" means the Bureau of General Services within the Department of Administrative and Financial Services as authorized pursuant to Title 5, section 1742.

3-A. Composting. "Composting" means the processing of organic material, including, but not limited to, food waste, for soil application using a method of accelerated biological decomposition of the organic material under controlled or uncontrolled conditions.

3-B. Excess edible food. "Excess edible food" means edible food that is not sold or otherwise used by a food waste generator and that is safe for human consumption. "Excess edible food" does not include unpackaged raw meat, fish or poultry; food damaged by pests, mold, bacteria or other contamination; food subject to a governmental or producer recall for food safety reasons; or food returned to a supplier by the food waste generator.

3-C. Food rescue organization. "Food rescue organization" means an organization that collects edible food that would otherwise be managed as waste and distributes the food for free for human consumption. "Food rescue organization" includes, but is not limited to, a food pantry, food bank, soup kitchen or community-based organization providing similar services.

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2 3-D. Food waste. "Food waste" means material derived from processing or discarding
3 food that is not sold or consumed. "Food waste" includes excess edible food that cannot
4 be donated to a food rescue organization but does not include:

4 A. Organic material produced or generated by a producer that is not consumable by
5 humans or animals, such as plant stems, stalks or roots, or that is culled, off-grade or
6 outside of specification. As used in this paragraph, "producer" has the same meaning
7 as in Title 7, section 320-A, subsection 1, paragraph C;

8 B. Cooking oil or yellow grease from residential sources;

9 C. Biomedical waste, hazardous waste, sludge or septage;

10 D. Nonorganic material;

11 E. Any food subject to a governmental or producer recall for food safety reasons; or

12 F. Any other material identified by the department by routine technical rule.

13 3-E. Point of generation. "Point of generation" means the location where waste is
14 initially produced.

15 **4. Recycling establishment.** "Recycling establishment" means an establishment
16 engaged in the marketing, brokering or purchasing of reportable recyclable materials
17 generated in the State. "Recycling establishment" does not include an establishment that
18 directs all reportable recyclable materials it markets, brokers or purchases to brokers and
19 purchasers that are located in the State.

20 **5. Reportable recyclable materials.** "Reportable recyclable materials" means any of
21 the following categories of recyclable materials that are separated from household,
22 commercial or institutional waste and that are delivered to a recycling establishment for
23 recycling: glass; cardboard, paper and paper products; plastic and plastic products; cartons,
24 laminated materials and other packaging; nonferrous and ferrous metals, including white
25 goods; textiles; and mixed streams of recyclable materials that include any combination of
26 the materials listed in this subsection.

27 **6. Soil application.** "Soil application" means the addition of material to soil to
28 improve its physical properties, such as water retention, permeability, water infiltration,
29 nutrient levels, drainage or aeration.

30 **Sec. 2. 38 MRSA §2101-B, sub-§1,** as enacted by PL 2015, c. 461, §1, is amended
31 to read:

32 **1. Priorities.** It is the policy of the State to support the solid waste management
33 hierarchy in section 2101 by preventing and diverting ~~surplus food and food seraps waste~~
34 from land disposal or incineration and by ensuring the management of food waste in
35 accordance with section 2147 and the following order of priority:

36 A. Reduction of the volume of surplus food waste generated at the source point of
37 generation;

38 B. Donation of surplus excess edible food to food banks, soup kitchens, shelters and
39 other entities rescue organizations or similar entities that will use surplus the food to
40 feed hungry people for human consumption;

41 C. Diversion of food seraps waste for agricultural use as animal feed, including
42 consumption by animals;

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1 ~~D. Utilization of waste oils for rendering and fuel conversion, utilization of food scraps~~
2 ~~for digestion to recover energy, other waste utilization technologies and creation of~~
3 ~~nutrient rich soil amendments through the composting of food scraps; and~~

4 D-1. Composting or anaerobic digestion of food waste, which may include energy
5 recovery, and subsequent soil application as long as the food waste is not mixed with
6 sludge or septage during composting or anaerobic digestion and before soil application;

7 D-2. Anaerobic digestion of food waste not followed by soil application; and

8 E. Land disposal or incineration of food scraps waste.

9 **Sec. 3. 38 MRSA §2132, sub-§1-B**, as enacted by PL 2015, c. 461, §4, is amended
10 to read:

11 **1-B. State waste disposal reduction goal.** It is the goal of the State to reduce the
12 statewide per capita disposal rate of municipal solid waste tonnage to 0.55 tons disposed
13 per capita by January 1, 2019 and to further reduce the statewide per capita disposal rate
14 by an additional 5% every 5 years thereafter. The baseline for calculating this reduction is
15 the 2014 solid waste generation and disposal capacity data gathered by the department.
16 Methods to achieve the goal under this subsection include efforts to consume or encourage
17 the consumption of fewer resources, to reduce or encourage the reduction of the waste or
18 inefficient use of resources and to increase the reuse or repurposing of solid waste.

19 **Sec. 4. 38 MRSA §2147** is enacted to read:

20 **§2147. Food waste management; diversion**

21 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
22 following terms have the following meanings.

23 **A. "Designated food waste generator" means a person that:**

24 (1) Beginning July 1, 2026 and until June 30, 2028, generates at a single location
25 an annual average of 2 or more tons per week of food waste and is located within
26 20 miles of an organics recycler with available capacity to accept the food waste
27 generated by the person at the location;

28 (2) Beginning July 1, 2028, generates at a single location an annual average of one
29 or more tons per week of food waste and is located within 25 miles of an organics
30 recycler with available capacity to accept the food waste generated by the person
31 at the location; and

32 (3) Not earlier than July 1, 2031 and subject to the adoption of rules by the
33 department pursuant to subsection 5, paragraph B, generates at a single location
34 the annual average per week of food waste specified by the department by rule
35 pursuant to subsection 5, paragraph B and is located within the distance specified
36 by the department by rule pursuant to subsection 5, paragraph B from an organics
37 recycler with available capacity to accept the food waste generated by the person
38 at the location.

39 **B. "Organics recycler" means an agricultural operation, composting facility, anaerobic**
40 **digestion facility or any other facility that diverts food waste from incineration or**
41 **landfill disposal.**

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1 C. "Single location" means contiguous property under common ownership, which may
2 include one or more buildings.

3 **2. Designated food waste generators; prohibition.** Beginning July 1, 2026, a
4 designated food waste generator may not dispose of or facilitate the disposal of its
5 generated food waste at an incineration facility or solid waste landfill and shall:

6 A. To the maximum extent practicable, reduce the volume of the food waste it
7 generates;

8 B. To the maximum extent practicable, separate excess edible food from other food
9 waste and arrange for the donation of the excess edible food to a food rescue
10 organization; and

11 C. Except as otherwise specified in this paragraph, separate food waste from other
12 types of waste at the point of generation and transfer or facilitate the transfer of the
13 food waste to an organics recycler for management in accordance with the following
14 order of priorities:

15 (1) Agricultural use, including consumption by animals;

16 (2) Composting or anaerobic digestion, which may include energy recovery, and
17 subsequent soil application; and

18 (3) Anaerobic digestion not followed by soil application.

19 A designated food waste generator may manage the food waste it generates at the point
20 of generation or at a different location through agricultural use, composting or
21 anaerobic digestion as long as the management of the food waste is consistent with the
22 priorities in section 2101-B, subsection 1. A designated food waste generator may
23 commingle food waste with other types of waste at the point of generation if the
24 commingled waste is to be managed by an organics recycler that can process such
25 commingled waste.

26 **3. Hardship waiver.** A designated food waste generator may petition the department
27 for and the department may approve a temporary waiver from some or all of the
28 requirements of this section if the generator demonstrates to the department's satisfaction
29 that compliance with the requirements of this section by the generator would cause or is
30 causing undue hardship based on specific factors determined by the department by rule. A
31 temporary waiver issued by the department pursuant to this subsection may be effective for
32 a period not to exceed 3 years.

33 **4. Designated food waste generators; reporting.** Except as otherwise provided
34 pursuant to subsection 5, paragraph B, beginning March 1, 2027, and annually thereafter,
35 a designated food waste generator shall submit to the department a report, in a format
36 designated by the department, that includes the following information:

37 A. The amount, in tons, of excess edible food donated by the generator to food rescue
38 organizations during the prior calendar year;

39 B. The amount, in tons, of food waste transferred by the generator to organics recyclers
40 during the prior calendar year; and

41 C. Any other information required by the department.

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5. Administration; rules; publication of information. The department shall administer the requirements of this section and shall adopt rules as necessary for the implementation, administration and enforcement of this section.

A. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and must include, at a minimum:

(1) Provisions setting forth the methodology by which the department will determine the persons that qualify as designated food waste generators under this section; and

(2) Requirements for the hardship waiver process under subsection 3.

B. Not earlier than July 1, 2031, the department may adopt rules providing that a designated food waste generator under subsection 1, paragraph A, subparagraph (3) includes a person that generates at a single location an annual average of less than one ton but greater than 100 pounds per week of food waste or that is located farther than 25 miles from an organics recycler with available capacity to accept the food waste generated by the person at the location.

If the department adopts rules pursuant to this paragraph, the department may by rule exempt from otherwise applicable reporting requirements of subsection 4 any designated food waste generator that generates at a single location an annual average of less than one ton but greater than 100 pounds per week of food waste.

C. By July 1, 2025, the department shall publish on its publicly accessible website and maintain and regularly update a list of all organics recyclers in the State known by the department to be authorized to accept food waste and all food rescue organizations in the State known by the department to accept excess edible food.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Maine Environmental Protection Fund 0421**

Initiative: Provides funding for one Environmental Specialist IV position and 4 Environmental Specialist III positions and associated position costs.

GENERAL FUND	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	0.000	5.000
Personal Services	\$0	\$484,349
All Other	\$0	\$70,000
GENERAL FUND TOTAL	\$0	\$554,349

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill. It provides that, beginning July 1, 2026, a designated food waste generator may not dispose

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of its generated food waste at an incineration facility or solid waste landfill and must to the maximum extent practicable reduce the volume of food waste it generates, separate and arrange for the donation of excess edible food and manage the remaining food waste it generates through agricultural use, composting or anaerobic digestion at the point of generation, at a different location or by transferring the food waste to an organics recycler for management. The Department of Environmental Protection may approve a temporary waiver from these requirements for a designated food waste generator based on undue hardship for a period not to exceed 3 years.

The amendment specifies that whether a person is considered a designated food waste generator is based on the average amount of food waste generated weekly by the person. Beginning July 1, 2026 and until June 30, 2028, a designated food waste generator is a person that generates 2 or more tons per week of food waste and that is located within 20 miles of an organics recycler with available capacity. Beginning July 1, 2028, a designated food waste generator is a person that generates one or more tons per week of food waste and that is located within 25 miles of an organics recycler with available capacity. The amendment specifies that, not earlier than July 1, 2031, the department may adopt rules providing that a designated food waste generator includes a person that generates less than one ton but greater than 100 pounds per week of food waste or that is located farther than 25 miles from an organics recycler with available capacity. The amendment makes changes to the State's food recovery hierarchy and clarifies the state waste disposal reduction goal.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 1009

LR 771(02)

An Act Regarding the Reduction and Recycling of Food Waste

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-775)

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$554,349	\$578,565	\$603,993
Appropriations/Allocations				
General Fund	\$0	\$554,349	\$578,565	\$603,993

Fiscal Detail and Notes

The Department of Environmental Protection has indicated that establishing a program to regulate the management and disposal of food waste will require additional staff and resources to conduct education and outreach to impacted entities, conduct compliance inspections and implement other enforcement fieldwork. The bill includes ongoing General Fund appropriations of \$554,349 beginning in fiscal year 2024-25 for one Environmental Specialist IV position, four Environmental Specialist III positions and associated position costs including vehicles and technology management.