

MAINE STATE LEGISLATURE

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H.P. 645

House of Representatives, March 7, 2023

An Act Regarding the Reduction and Recycling of Food Waste

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


ROBERT B. HUNT
Clerk

Presented by Representative ZEIGLER of Montville.
Cosponsored by Representative SAYRE of Kennebunk, Senator GROHOSKI of Hancock and Representatives: ARFORD of Brunswick, GOLEK of Harpswell, HOBBS of Wells, MATLACK of St. George, MILLIKEN of Blue Hill, PLUECKER of Warren, RUNTE of York, SHAGOURY of Hallowell.

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

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

4 **§2101-A. Definitions**

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

7 **1-A. Anaerobic digestion.** "Anaerobic digestion" means the breakdown of organic
8 matter by microorganisms in the absence of oxygen to produce biogas.

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

11 **3-A. Composting.** "Composting" means the processing of food scraps for soil
12 application using a method of accelerated biological decomposition of organic material
13 under controlled or uncontrolled conditions.

14 **3-B. Diversion.** "Diversion" means the use or reuse of food scraps for a purpose under
15 section 2101-B, subsection 1.

16 **3-C. Food rescue.** "Food rescue" means the practice of collecting edible food that
17 would otherwise become solid waste and distributing the food to a hunger relief
18 organization, food bank or pantry or other recipient to be used for human consumption.

19 **3-D. Food scraps.** "Food scraps" means material that is derived from processing or
20 discarding food material produced from human or animal food production, preparation and
21 consumption activities. "Food scraps" does not include biomedical waste, hazardous waste,
22 sludge or septage or nonorganic material.

23 **3-E. Point of generation.** "Point of generation" means the location where waste is
24 initially produced.

25 **3-F. Public building.** "Public building" means a state, county or municipal building,
26 library, airport terminal, bus station, railroad station, school building or school.

27 **3-G. Public land.** "Public land" means all land that is owned or controlled by a state,
28 county or municipal government body.

29 **4. Recycling establishment.** "Recycling establishment" means an establishment
30 engaged in the marketing, brokering or purchasing of reportable recyclable materials
31 generated in the State. "Recycling establishment" does not include an establishment that
32 directs all reportable recyclable materials it markets, brokers or purchases to brokers and
33 purchasers that are located in the State.

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

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

3 **1. Priorities.** It is the policy of the State to support the solid waste management
4 hierarchy in section 2101 by ~~preventing and diverting surplus food and food scraps from~~
5 ~~land disposal or incineration in accordance~~ prohibiting the disposal of surplus food and
6 food scraps in landfills or by incineration and ensuring the management of surplus food
7 and food scraps under section 2147 and with the following order of priority:

8 A. Reduction of the volume of surplus food generated at the ~~source~~ point of generation;

9 B. Donation of surplus food to ~~a food banks, soup kitchens, shelters and bank, food~~
10 pantry, hunger relief organization or other entities recipient that will use surplus food
11 to feed hungry people for human consumption;

12 C. Diversion ~~of food scraps for use as animal feed~~ for agricultural use, including
13 consumption by animals;

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

17 E. ~~Land disposal or incineration of food scraps.~~

18 F. Composting or anaerobic digestion and subsequent soil application, which may
19 include energy recovery at a composting or anaerobic digestion facility. Food scraps
20 may not be mixed with sludge or septage during composting or anaerobic digestion
21 before soil application; and

22 G. Anaerobic digestion not followed by soil application.

23 **Sec. 3. 38 MRSA §2122**, as amended by PL 2011, c. 655, Pt. GG, §29 and affected
24 by §70, is further amended to read:

25 **§2122. State waste management ~~and~~, recycling and diversion plan**

26 The department shall prepare an analysis of, and a plan for, the management, reduction
27 ~~and~~, recycling and diversion of solid waste for the State. The plan must be based on the
28 priorities and recycling goals established in sections 2101 ~~and~~, 2132 and 2147. The plan
29 must provide guidance and direction to municipalities in planning and implementing waste
30 management and recycling programs at the state, regional and local levels.

31 **1. Consultation.** In developing the state plan the department shall solicit public input
32 and may hold hearings in different regions of the State.

33 **2. Revisions.** The department shall revise the analysis by January 1, 2014 and every
34 5 years after that time to incorporate changes in waste generation trends, changes in waste
35 recycling and disposal technologies, development of new waste generating activities and
36 other factors affecting solid waste management as the department finds appropriate.

37 **Sec. 4. 38 MRSA §2124**, as amended by PL 2011, c. 655, Pt. GG, §30 and affected
38 by §70, is further amended by enacting at the end a new paragraph to read:

39 By January 1, 2024 and biennially thereafter, the department shall submit a report to
40 the Governor and the joint standing committee of the Legislature having jurisdiction over
41 environment and natural resources matters on statewide generation of solid waste,

1 recycling rates, food scraps generation and diversion rates, food rescue and available
2 disposal capacity for solid waste, including an analysis of the extent that change in disposal
3 capacity has affected or is likely to affect solid waste disposal prices. If the department
4 determines that a decline in available landfill capacity has generated or has the potential to
5 generate supracompetitive prices, the department shall include this finding in the report and
6 provide recommendations for legislative or regulatory changes as necessary. The joint
7 standing committee of the Legislature having jurisdiction over environment and natural
8 resources matters may report out legislation related to the report submitted pursuant to this
9 paragraph.

10 **Sec. 5. 38 MRSA §2132, sub-§1**, as amended by PL 2015, c. 461, §2, is further
11 amended to read:

12 **1. State recycling goal.** It is the goal of the State to recycle or ~~compost~~ reduce by
13 diversion, by January 1, 2021, 50% of the municipal solid waste tonnage generated each
14 year within the State.

15 **Sec. 6. 38 MRSA §2132, sub-§1-B**, as enacted by PL 2015, c. 461, §4, is amended
16 to read:

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

25 **Sec. 7. 38 MRSA §2132, sub-§5** is enacted to read:

26 **5. Food scraps disposal goal.** It is the goal of the State to reduce the annual statewide
27 per capita food scraps disposal rate by 10% by January 1, 2028. The baseline for
28 calculating this reduction is the 2021 solid waste generation and disposal capacity data
29 gathered by the department. By January 1, 2028 and every 5 years thereafter, the
30 department shall update and revise the food scraps disposal goal under this subsection using
31 all relevant information, including data generated in accordance with sections 2122 and
32 2124.

33 **Sec. 8. 38 MRSA §2132, sub-§6** is enacted to read:

34 **6. Food rescue goal.** It is the goal of the State to increase the statewide per capita rate
35 of food rescue by 40% by January 1, 2025. The baseline for calculating this increase is the
36 2022 food rescue data gathered by the department. By January 1, 2025 and every 3 years
37 thereafter, the department shall update and revise the food rescue goal under this subsection
38 using all relevant information, including data generated in accordance with sections 2122
39 and 2124.

40 **Sec. 9. 38 MRSA §2147** is enacted to read:

41 **§2147. Food scraps management; diversion**

42 **1. Priority of management of food scraps.** Food scraps collected under this section
43 must be managed pursuant to the food recovery hierarchy under section 2101-B.

1 **2. Food scraps separation.** A person under subsection 3 who produces food scraps
2 shall:

3 A. Separate the food scraps from other solid waste at the point of generation. If the
4 person conducts a program to separate food scraps and the program includes a
5 component for the education of program participants regarding the need to separate
6 food scraps, a de minimis amount of food scraps may be disposed of as solid waste;

7 B. Transfer the food scraps or cause the food scraps to be transferred to a location that
8 manages food scraps in a manner consistent with section 2101-B, subsection 1; or

9 C. Manage the food scraps through composting or anaerobic digestion on site.

10 **3. Schedule for food scraps and separation.** A person is subject to the provisions of
11 subsection 2 if:

12 A. Beginning January 1, 2025, the person's activities or processes produce more than
13 52 tons per year or more than one ton per week of food scraps;

14 B. Beginning January 1, 2026, the person's activities or processes produce more than
15 26 tons per year or more than 1/2 ton per week of food scraps;

16 C. Beginning January 1, 2027, the person's activities or processes produce more than
17 18 tons per year or more than 1/3 ton per week of food scraps; and

18 D. Beginning January 1, 2028, the person generates any amount of food scraps.

19 **4. Collection of food scraps.** A commercial entity engaged in the transport of
20 municipal solid waste shall:

21 A. Beginning January 1, 2027, offer to commercial customers the collection of food
22 scraps and deliver any food scraps collected to a location that manages food scraps in
23 a manner consistent with section 2101-B, subsection 1;

24 B. Beginning January 1, 2029, offer to residential customers the collection of scraps
25 and deliver any food scraps collected to a location that manages food scraps in a manner
26 consistent with section 2101-B, subsection 1, except for a customer who has available
27 another commercial food scraps disposal service that meets the requirements of this
28 subsection; and

29 C. If the commercial entity offers a drop-off service at a fixed location to collect
30 municipal solid waste, offer at the fixed location the collection of food scraps.

31 **5. Municipal solid waste management.** A commercial entity engaged in the transport
32 of solid waste is exempt from the provisions of subsection 4, paragraph B in a municipality
33 that has adopted a solid waste management ordinance that covers the collection of food
34 scraps in a manner consistent with section 2101-B, subsection 1 and the ordinance:

35 A. Is applicable to all residents of the municipality; and

36 B. Prohibits a resident from opting out of municipally provided solid waste
37 management services.

38 **6. Public collection containers for food scraps.** Beginning January 1, 2027, if a
39 container in a public building or on public land is provided for the public to use for solid
40 waste destined for disposal, a container for the collection of food scraps must be provided
41 that is clearly labeled as a container for food scraps and be placed as close as possible to

1 the container for the disposal of solid waste and provide equally convenient access to
2 members of the public.

3 7. Rules. The department shall adopt rules to carry out the purposes of this section.
4 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
5 chapter 375, subchapter 2-A.

6 **SUMMARY**

7 This bill sets goals for the reduction of the disposal of food scraps and for food rescue,
8 which is collecting edible food that would otherwise become solid waste and distributing
9 the food to a hunger relief organization, food bank or pantry or other recipient to be used
10 for human consumption. The bill sets priorities for the management of food scraps, with
11 reduction at the point of generation being the first priority, then diversion for food
12 consumption by humans, then diversion for agricultural use, including for consumption by
13 animals, then subjecting the food scraps to composting or anaerobic digestion with
14 subsequent soil application and finally subjecting the food scraps to anaerobic digestion
15 not followed by soil application. Requirements are placed on producers of food scraps to
16 separate the food scraps from other solid waste at the point of generation, with these
17 requirements phased in over a 5-year period, beginning with the larger producers of food
18 scraps. Commercial entities engaged in the transportation of municipal solid waste are
19 required to collect food scraps from customers except for customers in municipalities with
20 solid waste management ordinances that cover the collection of food scraps and that are
21 consistent with the State's food recovery policy. The bill requires clearly marked food
22 scraps containers to be placed next to any solid waste containers provided in public
23 buildings and on public land.