

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

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When a municipality incurs net general assistance costs in any fiscal year in excess of .0003 of that municipality's state valuation as determined by the State Tax Assessor in the statement filed by him as provided in Title 36, section 381, the Department of Human Services shall reimburse the municipality for 90% of the amount in excess of such expenditures ~~which when the department considers to be reasonable and appropriate finds that the municipality has been in compliance with all requirements of this chapter.~~

Sec. 2. 22 MRSA § 4504, sub-§ 6 is enacted to read:

6. Department assistance. The department shall offer assistance to municipalities in complying with this chapter. The department may review the administration of the general assistance program of any municipality whether or not reimbursement is given. This review shall include a discussion with and, if necessary, recommendations to the administrator of the general assistance program as to the requirements of this chapter.

Effective September 14, 1979

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## CHAPTER 383

H. P. 1139 — L. D. 1518

**AN ACT to Merge the Septage and Hazardous Waste Law into the Solid Waste Law and to Conform them with the Requirements of the Federal Resource Recovery and Conservation Act.**

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

Sec. 1. 38 MRSA §§ 1301 and 1302, as enacted by PL 1973, c. 387, are amended to read:

§ 1301. **Short title**

This chapter shall be known and may be cited as the "Maine **Hazardous Waste, Septage and Solid Waste Management Act.**"

§ 1302. **Declaration of policy**

The Legislature declares it to be the policy of the State of Maine consistent with its responsibility to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent water ~~and~~, air ~~and~~ land pollution, that it shall encourage **hazardous waste, septage and solid waste** programs, public or private, which will reduce the volume of **hazardous waste, septage and solid waste** production, improve efforts to reuse and recover valuable resources currently being wasted and which will not

adversely affect the public health, safety and welfare of the citizens nor degrade the environment.

The Legislature also finds and declares that economic, efficient and environmentally sound method of waste disposal is of the highest priority. Municipalities **and other persons** are generating increasing amounts of **hazardous waste, septage and solid waste** with no systematic or consistent methods being used to reduce the volume of waste or to soundly dispose of it. Failure to plan properly for future **hazardous waste, septage and solid waste** may further deplete already taxed natural resources and aggravate environmental and public health problems resulting from present inadequate practices of resource recovery and ~~solid waste disposal~~ **conservation waste storage and management, transportation, treatment and disposal.**

Sec. 2. 38 MRSA § 1303, as amended by PL 1977, c. 78, § 208, is repealed and the following enacted in its place:

### § 1303. Definitions

The following words when used in this chapter shall have the following meanings unless the context in which they are used clearly shows a different meaning.

1. Board. "Board" means the Board of Environmental Protection.
2. Department. "Department" means the Department of Environmental Protection.
3. Disposal. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous or solid waste, sludge or septage into or on any land or water so that the hazardous or solid waste, sludge or septage or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.
4. Generation. "Generation" means the act or process of producing hazardous or solid waste, sludge or septage.
5. Hazardous waste. "Hazardous waste" means any chemical substances or materials, gas, solid or liquid, designated as hazardous by the United States Environmental Protection Agency pursuant to the United States Resource Recovery and Conservation Act, Public Law 94-580 and amendments to the Act or designated hazardous by the Act or its amendments.
6. Manifest. "Manifest" means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transport.
7. Resource conservation. "Resource conservation" means the reduction of the amounts of solid waste that is generated, the reduction of overall resource

consumption and utilization of recovered resources.

8. Resource recovery. "Resource recovery" means materials that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

9. Septage. "Septage" means waste, refuse effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities.

10. Solid waste. "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural wastes.

11. Storage. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

12. Transport. "Transport" means the movement of hazardous or solid waste, sludge or septage from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

13. Treatment. "Treatment" means any process designed to change the character or composition of any hazardous waste so as to render the waste less hazardous.

14. Waste facility. "Waste facility" means any land area or structure or combination of land area and structures, including dumps used for storing, transferring, salvaging, processing, reducing, recovering, incinerating, treating or disposing of hazardous or solid wastes, sludge or septage.

15. Waste management. "Waste management" means purposeful, systematic and unified control of the collection, storage, reduction, incineration, transportation, treatment, processing, recovering, salvaging and disposal of hazardous or solid waste, sludge or septage.

Sec. 3. 38 MRSA § 1304, sub-§ 1, as last amended by PL 1977, c. 300, §§ 52 and 53, is repealed and the following enacted in its place:

1. Rules. The board may adopt, amend and enforce, subject to the Maine Administrative Procedure Act, such rules as it deems necessary governing waste management, including the location, establishment, construction and alteration of waste facilities. The rules shall be designed to encourage logical utilization of recoverable resources, minimize pollution of the state's air, land and water resources, prevent the spread of disease or other health hazards, prevent contamination of drinking water supplies and protect public health and safety. In adopting these rules, the board shall also consider economic impact, technical feasibility and such differences as are created by population, hazardous or solid

waste, sludge or septage volume and geographic location.

The board may adopt by regulation any or all of the final regulations of the United States Environmental Protection Agency defining hazardous waste. Regulations adopted by the board shall be effective although enforcement by the United States Environmental Protection Agency of its regulations has been stayed or enjoined by court order during the pendency of any suit brought to determine the legality of the regulations.

Sec. 4. 38 MRSA § 1304, sub-§ 2, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

2. **Site location.** The board may provide by rules that no person may locate, establish, construct, alter or operate any waste facility unless approved by the board under sections 481 to 488.

Sec. 5. 38 MRSA § 1304, sub-§ 4, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

4. **Technical assistance.** The department is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, including methods of recycling hazardous or solid waste, sludge or septage.

Sec. 6. 38 MRSA § 1304, sub-§ 4-A is enacted to read:

4-A. **Right of entry.** For the purposes of developing or enforcing any rule authorized by this Act, any duly authorized representative or employee of the department may, upon presentation of appropriate credentials, at any reasonable time:

A. Enter any commercial or industrial facility where hazardous or solid wastes, sludge or septage is generated, stored, treated or disposed of;

B. Inspect and obtain samples of any hazardous or solid waste, sludge or septage, including samples from any vehicle in which hazardous or solid waste, sludge or septage are being transported, as well as samples of any containers or labels; and

C. Inspect and copy any records, reports, information or test results relating to hazardous or solid waste, sludge or septage.

Sec. 7. 38 MRSA § 1304, sub-§ 5, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

5. **Planning grants.** The department is authorized to receive funds, public and private, and to use the funds for the administration of this chapter. The board may make grants from the funds to municipalities and regional planning agencies or

their agents, as designated by the municipality, for the purpose of planning and implementing waste management activities and waste facilities pursuant to guidelines established by the board.

Sec. 8. 38 MRSA § 1304, sub-§§ 6, 7, and 8 are enacted to read:

6. Study. The department shall conduct and publish a study of hazardous waste management in this State. The study shall include, but not be limited to:

- A. A description of the sources of hazardous waste generation within the State, including the types and quantities of those wastes;
- B. A description of current hazardous waste management practices and costs, including treatment and disposal, within the State; and
- C. Prior to the conduct of its study the board shall, after opportunity for a public hearing, publish a list of chemical substances and materials, gas, liquid or solid, which shall constitute the basis of the study. This list shall be consistent with regulations and guidelines published by the United States Environmental Protection Agency.

7. Hazardous waste plan. After the publication of the study required by this section, the department shall develop and publish a plan for the safe and effective management of hazardous wastes within this State. The plan shall include, but not be limited to:

- A. Identification of those locations within the State which are suitable for the establishment of hazardous waste treatment or disposal facilities or sites;
- B. Identification of those locations within the State which are not suitable for the establishment of hazardous waste treatment or disposal facilities or sites; and
- C. Rules establishing criteria or standards for:
  - (1) The storage, treatment and disposal of hazardous wastes;
  - (2) The containerization and labeling of hazardous wastes. These rules shall be consistent with those issued by the United States Department of Transportation and the Maine hazardous materials control statute, Title 25, chapter 256;
  - (3) The safe operation and maintenance of hazardous waste storage treatment or disposal facilities or sites;
  - (4) A listing of wastes or combinations of wastes which are not compatible, and which may not be stored or disposed of together;
  - (5) The reporting of the generation, storage, transportation, treatment or



disposal of hazardous wastes;

(6) The certification of supervisory personnel at hazardous waste treatment or disposal facilities or sites;

(7) The use of a manifest during the transport of hazardous wastes;

(8) The closing, termination and potential future uses of hazardous waste disposal sites; and

(9) Evidence of financial capability of hazardous waste facilities' operators or owners and those who transport hazardous waste to protect public health, safety or welfare and the environment including, but not limited to:

(a) Liability insurance;

(b) Bonding; and

(c) Financial ability to comply with these statutes or permit conditions.

8. Permits. The board shall grant a permit approving a waste facility whenever it finds that hazardous or solid waste, sludge or septage to be managed in a waste facility will not contaminate any water of the State or constitute a hazard to health or welfare or create a nuisance to any person.

Sec. 9. 38 MRSA § 1305, sub-§ 6, is enacted to read:

6. Municipal septage sites. Each municipality shall provide for the disposal of all refuse, effluent, sludge and any other materials from all septic tanks and cesspools located within the municipality. In addition, any person may provide a site for disposal of septage. Before making application to the Department of Environmental Protection for approval of any site, that person shall first have written approval for the site location from the municipality in which it is located. The municipality or the municipal officers authorized to act for the municipality, after hearing, shall approve any such private site if it finds that the site does not constitute a hazard to the health or safety of the residents of the municipality.

Sec. 10. 38 MRSA § 1306, as enacted by PL 1973, c. 387, is repealed and the following enacted in its place:

#### § 1306. Prohibited acts

1. Permit; exception. It shall be unlawful for any person to establish, construct, alter or operate any waste facility without a permit issued by the board, except that any person may dispose of septage removed from a septic tank or cesspool serving his residence on his own land.

2. Time schedules. The board may establish reasonable time schedules for compliance with this chapter and regulations promulgated by the board.

3. Terms and conditions of permits. Permits shall be issued under such terms and conditions as the board may prescribe.

4. Time period. Permits shall be issued for a period not to exceed 5 years and may be renewed.

Sec. 11. 38 MRSA § 1309, § 1310 and § 1311 are enacted to read:

§ 1309. Interstate cooperation

The Legislature encourages cooperative activities by the department with other states for the improved management of hazardous wastes; for improved, and so far as is practicable, uniform state laws relating to the management of hazardous wastes; and compacts between this and other states for the improved management of hazardous wastes.

§ 1310. Emergency

If the commissioner finds after investigation that the disposal of any hazardous or solid waste, sludge or septage has created or is likely to create a substantial and immediate danger to public health or safety, he may order the person or persons causing the disposal of the waste to immediately cease or prevent the disposal and to remove the waste already disposed of from the disposal site.

Any order issued under this section shall contain findings of fact describing, insofar as possible, the waste being disposed, the site of the disposal and the danger to public health or safety.

Service of the commissioner's findings and any order directed to a person pursuant to this section shall be made by a sheriff or some deputy within the county in which that person resides or maintains a place of business.

The person to whom such an order is directed shall comply therewith immediately. The order may not be appealed to the Superior Court, but any person to whom it is directed may apply to the board for a hearing on the order, and the hearing shall be held by the board within 48 hours after receipt of application therefor. Within 7 days after the hearing, the board shall make findings of fact and continue, revoke or modify the order. The decision of the board may be appealed to the Superior Court.

§ 1311. Municipal hazardous waste control

Nothing in this chapter shall be construed as a preemption of the field of hazardous waste regulation and study on the part of the State. Municipalities may study hazardous waste and adopt and enforce hazardous waste control and

abatement ordinances, to the extent that these ordinances are not less stringent than this chapter or than any standard under, or other action promulgated pursuant to, this chapter. Local ordinance provisions which touch on matters not dealt with by the chapter or which are more stringent than this chapter shall bind persons residing in the municipality.

Sec. 12. 38 MRSA c. 13-A, as enacted by PL 1977, c. 353, § 3, is repealed.

Effective September 14, 1979

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## CHAPTER 384

H. P. 1190 — L. D. 1431

### AN ACT to Provide for a Method of Arranging Voluntary Meetings Between Adoptees and Adoptive Parents and Natural Parents.

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

22 MRSA § 2706-A is enacted to read:

#### § 2706-A. Adoption contact files

1. **File.** The state registrar shall maintain files of the names and addresses of adopted persons and their adoptive and biological parents, who have registered under this section.

2. **Registration.** The following persons may register their name and address with the state registrar and request contact:

- A. An adopted person 18 years old or more;
- B. An adoptive parent of an adopted person who is less than 18 years old; and
- C. A biological parent of an adopted person.

3. **Requesting additional information.** The state registrar may request from each person registering or requesting contact any information that is necessary to insure accurate identification of that person and to assist in identifying the other party.

4. **Reviewing departmental files.** The state registrar may review both public and confidential departmental files to assist in identifying or verifying the identification of the other party. If both parties have registered, he may release