

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2016 to April 29, 2016**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
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**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2016**

**CHAPTER 461  
H.P. 207 - L.D. 313**

**An Act To Create a  
Sustainable Solution to the  
Handling, Management and  
Disposal of Solid Waste in the  
State**

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

**Sec. 1. 38 MRSA §2101-B** is enacted to read:

**§2101-B. Food recovery hierarchy**

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

A. Reduction of the volume of surplus food generated at the source;

B. Donation of surplus food to food banks, soup kitchens, shelters and other entities that will use surplus food to feed hungry people;

C. Diversion of food scraps for use as animal feed;

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

E. Land disposal or incineration of food scraps.

**2. Guiding principle.** It is the policy of the State to use the order of priority in this section, in conjunction with the order of priority in section 2101, as a guiding principle in making decisions related to solid waste and organic materials management.

**Sec. 2. 38 MRSA §2132, sub-§1**, as amended by PL 2011, c. 655, Pt. GG, §32 and affected by §70, is further amended to read:

**1. State recycling goal.** It is the goal of the State to recycle or compost, by January 1, ~~2014~~ 2021, 50% of the municipal solid waste tonnage generated each year within the State.

**Sec. 3. 38 MRSA §2132, sub-§1-A**, as amended by PL 2011, c. 655, Pt. GG, §32 and affected by §70, is repealed.

**Sec. 4. 38 MRSA §2132, sub-§1-B** is enacted to read:

**1-B. State waste disposal reduction goal.** It is the goal of the State to reduce the statewide per capita disposal rate of municipal solid waste tonnage to 0.55

tons disposed per capita by January 1, 2019 and to further reduce the statewide per capita disposal rate by an additional 5% every 5 years thereafter. The baseline for calculating this reduction is the 2014 solid waste generation and disposal capacity data gathered by the department.

**Sec. 5. 38 MRSA §2132, sub-§2**, as amended by PL 2011, c. 655, Pt. GG, §32 and affected by §70, is further amended to read:

**2. Goal revision.** The department shall recommend revisions, if appropriate, to the state recycling goal and waste disposal reduction goal established in this section. The department shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**Sec. 6. 38 MRSA §2201, 3rd ¶**, as amended by PL 2011, c. 655, Pt. GG, §64 and affected by §70, is further amended to read:

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the bureau's and the department's programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste. Funds related to fees imposed on the disposal of construction and demolition debris and residue from the processing of construction and demolition debris may be expended only for the state cost share to municipalities under the closure and remediation cost-sharing program for solid waste landfills established in section 1310-F. Funds related to fees imposed under this article may be expended to provide grant funding in accordance with the Maine Solid Waste Diversion Grant Program established in section 2201-B. The department shall, on an annual basis, conduct a review of the revenues presently in the fund and the revenues projected to be added to or disbursed from the fund in upcoming calendar years and determine what amount of revenues, if any, are available to provide grant funding under section 2201-B. If the department determines that there are revenues in the fund available in the upcoming calendar year to provide grant funding under section 2201-B, the department must ensure that such revenues are designated for use in accordance with section 2201-B by the end of that calendar year. Funds related to operations may be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the bureau and for the repayment of any obligations of the bureau incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the bureau and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance nec-

essary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Revenue Services incurred in the administration of Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all bureau activities other than those included in the operations account.

**Sec. 7. 38 MRSA §2201-B** is enacted to read:  
**§2201-B. Maine Solid Waste Diversion Grant Program**

**1. Establishment.** The Maine Solid Waste Diversion Grant Program, referred to in this section as "the program," is established to provide grants to public and private entities to assist in the development, implementation or improvement of programs, projects, initiatives or activities designed to increase the diversion of solid waste from disposal in the State.

**2. Administration.** The department shall administer the program and may dispense revenue from the Maine Solid Waste Management Fund established under section 2201 for the purposes of the program based on approved grant requests from public and private applicants. The department may provide grants for the documented costs of application proposals in accordance with the priorities in subsection 5. Costs incurred by the department in the development and administration of the program may be paid with revenue in the Maine Solid Waste Management Fund in a manner consistent with section 2201.

**3. Audit.** Revenue from the Maine Solid Waste Management Fund established under section 2201 disbursed by the program is subject to audit as determined by the department, and the recipient of any such funding must agree to be subject to audit and to cooperate with the auditor as a condition of receiving funding.

**4. Eligibility criteria.** The department may disburse grants under the program to any public or private entity demonstrating that a proposed program, project, initiative or activity is, in the department's determination, likely to increase the diversion of solid waste from disposal within a particular community, municipality or region or the State, including, but not limited to, municipal or regional composting, organics recovery or recycling programs, including the establishment of such programs or the purchase of infrastructure, equipment or other items necessary to implement such programs or improve existing programs; programs designed to provide equipment for or otherwise support residential composting and recycling; programs or business models designed to collect, transport for processing or process organic or recyclable materials; pilot programs designed to evaluate the

feasibility of targeted composting, organics recovery, recycling or other waste management programs or initiatives; and initiatives or programs designed to educate certain categories of individuals or the general public about composting, organics recovery or recycling or to otherwise improve individual or community waste management practices.

**5. Priorities.** The department shall give highest priority in the awarding of funds under this section to programs, projects, initiatives or activities proposed by municipal or regional association applicants that otherwise meet the department's eligibility criteria. The department shall also give priority to applicants proposing programs, projects, initiatives or activities that are likely to increase the removal and recycling of organic materials from municipal waste streams. The awarding of funds under this section must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B and must be prioritized to provide the most benefit to the State in terms of increasing the diversion of solid waste from disposal.

**6. Conditions of approval.** The department may require, as a condition of grant approval, that an applicant demonstrate its ability to provide in-kind contributions relating to the grant applied for or to provide a certain level of matching funding to supplement the grant applied for.

**7. Rules.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 38 MRSA §2203-A, sub-§1**, as amended by PL 2011, c. 544, §3, is further amended to read:

**1. Fees.** Fees Unless otherwise provided by rule adopted in accordance with subsection 3, fees are imposed in the following amounts to be levied for solid waste that is disposed of at commercial, municipal, state-owned and regional association landfills.

Asbestos	\$5 per cubic yard
Oil-contaminated soil, gravel, brick, concrete and other aggregate	\$25 per ton
Waste water facility sludge	\$5 per ton
Ash, coal and oil	\$5 per ton
Paper mill sludge	\$5 per ton

Industrial waste	\$5 per ton
Sandblast grit	\$5 per ton
All other special waste	\$5 per ton
Municipal solid waste ash	\$1 per ton
Front end process residue (FEPR)	\$1 per ton
<del>Beginning January 1, 2013 and ending December 31, 2013, construction and demolition debris and residue from the processing of construction and demolition debris</del>	<del>\$1 per ton</del>
<del>Beginning January 1, 2014, construction and demolition debris and residue from the processing of construction and demolition debris</del>	<del>\$2 per ton</del>

**Sec. 9. 38 MRSA §2203-A, sub-§3** is enacted to read:

**3. Rules.** The department may adopt rules imposing per ton or per cubic yard fees on any of the types of waste listed in subsection 1 disposed of at a commercial, municipal, regional association or state-owned solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. 38 MRSA §2204, first ¶,** as amended by PL 1999, c. 385, §8, is further amended to read:

~~The~~ Unless otherwise provided by rule adopted in accordance with subsection 4, the department shall impose a fee of \$2 per ton on any municipal solid waste disposed of at a commercial, municipal or regional association or state-owned landfill, except that there is no fee on municipal solid waste generated by a municipality that owns the landfill accepting it or that has entered into a contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility.

**Sec. 11. 38 MRSA §2204, sub-§4** is enacted to read:

**4. Rules.** The department may adopt rules imposing per ton fees on any municipal solid waste disposed of or received for processing at a commercial,

municipal, regional association or state-owned solid waste disposal facility, solid waste processing facility, incineration facility or solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 12. Department of Environmental Protection; food scraps composting pilot program.** The Department of Environmental Protection, referred to in this section as "the department," shall develop, implement and administer a food scraps composting pilot program as described in this section.

1. The department shall invite municipalities to voluntarily participate in the pilot program and shall select as participants at least one municipality from each of the 3 following groups of counties:

- A. Androscoggin, Cumberland, Lincoln, Sagadahoc and York;
- B. Franklin, Kennebec, Knox, Oxford and Waldo; and
- C. Aroostook, Hancock, Penobscot, Piscataquis, Somerset and Washington.

2. The department shall invite educational programs to voluntarily participate in the pilot program and shall select as participants at least one educational program from each of the 3 following categories:

- A. A public or private educational program providing kindergarten to grade 12 education with an enrollment of 500 students or less, as measured during the 2014-2015 school year;
- B. A public or private educational program providing kindergarten to grade 12 education with an enrollment of more than 500 students, as measured during the 2014-2015 school year; and
- C. A public or private postsecondary educational program providing undergraduate and graduate education.

3. The department shall invite and shall select as additional voluntary participants in the pilot program at least one entity from each of the 3 following categories:

- A. A correctional facility;
- B. A hospital; and
- C. A commercial restaurant that generates, on average, 1/2 ton or more of food scraps per week.

4. The department shall invite the Department of Administrative and Financial Services, Bureau of General Services to, in consultation with the Legislative Council, participate in the pilot program, as re-

sources allow, with respect to the State House and Burton M. Cross State Office Building facilities.

5. The department shall provide technical assistance, and may provide financial assistance consistent with the Maine Solid Waste Diversion Grant Program established under the Maine Revised Statutes, Title 38, section 2201-B to each participating entity to develop and implement a food scraps composting program or to improve or expand a participating entity's existing food scraps composting program. A food scraps composting program implemented under this section may involve the establishment of a traditional aerobic composting system or an anaerobic digestion system or implementation of other food scraps processing or organics recovery technology approved by the department, or may, subject to the approval of the department, involve coordination by a participating entity with a food scraps composting program or business for the collection and delivery of the participating entity's food scraps to the program or business for processing or recovery. Each participating entity shall collect data on the amount of food scraps diverted from the waste stream by the program, the related cost savings realized by the participating entity and any problems encountered in implementing the program. Each participating entity shall compile this information into a report and transmit the report to the department on or before a date determined by the department.

6. The department shall analyze the reports submitted by the participating entities pursuant to subsection 5 and, by January 15, 2019, shall submit a report to the joint standing committee of the Legislature having jurisdiction over environmental and natural resources matters detailing the data collected by each participating entity and any additional findings and including any recommendations for legislation to implement permanent food scraps composting programs or requirements at the state, regional, municipal or local level or to otherwise increase the diversion rate for organic materials in the State. After receiving the report, the joint standing committee may report out a bill relating to the report to the First Regular Session of the 129th Legislature.

See title page for effective date.

**CHAPTER 462**

**H.P. 305 - L.D. 466**

**An Act To Increase  
Competition and Ensure a  
Robust Information and  
Telecommunications Market**

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

**Sec. 1. 35-A MRSA §7102, sub-§6-A** is enacted to read:

**6-A. Price cap incumbent local exchange carrier or price cap ILEC.** "Price cap incumbent local exchange carrier" or "price cap ILEC" means an incumbent local exchange carrier that agreed to accept Connect America Fund Phase II support pursuant to the Federal Communications Commission's Report and Order released on December 18, 2014, in In the Matter of Connect America Fund, WC Docket No. 10-90, FCC 14-190, for locations within the State on or before January 1, 2016 and does not receive funding from a state universal service fund under section 7104.

**Sec. 2. 35-A MRSA §7104, sub-§2,** as amended by PL 2011, c. 623, Pt. B, §13, is further amended to read:

**2. General availability.** The commission shall seek to ensure that provider of last resort service is available at reasonably comparable rates to consumers throughout all areas of the State at reasonably comparable rates in which the service is available pursuant to section 7221.

**Sec. 3. 35-A MRSA §7221, sub-§§4 to 7** are enacted to read:

**4. Removal of the provider of last resort service obligation in select municipalities.** This subsection governs the removal of the obligation of a price cap ILEC to provide provider of last resort service in certain municipalities.

A. Thirty days after the effective date of this subsection a price cap ILEC is not obligated to provide provider of last resort service in the following municipalities:

- (1) Portland;
- (2) Lewiston;
- (3) Bangor;
- (4) South Portland;
- (5) Auburn;
- (6) Biddeford; and
- (7) Sanford.

B. Every 6 months after the effective date of this subsection, the commission shall examine the service quality reports of a price cap ILEC under section 7225-A for the immediately preceding 2 consecutive quarters and, if the service quality requirements of section 7225-A have been met, the commission shall issue a certificate relieving the price cap ILEC of the obligation to provide provider of last resort service in 5 of the municipalities listed in this paragraph. The order in which a price cap ILEC may be relieved of the obligation