

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Ensure Landfill Capacity and Promote Recycling

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

Sec. 1. 38 MRSA §1310-N, sub-§11, as enacted by PL 2007, c. 414, §3, is amended to read:

11. Waste generated within the State. Consistent with the Legislature's findings in section 1302, a solid waste disposal facility owned by the State may not be licensed to accept waste that is not waste generated within the State. For purposes of this subsection, "waste generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State ~~or only if the residue or bypass is generated from waste that originated in the State, waste, whether generated within the State or outside of the State, if it is used for daily cover, frost protection or stability or is and~~ waste generated within 30 miles of the solid waste disposal facility.

Sec. 2. 38 MRSA §1310-U, as amended by PL 2011, c. 655, Pt. GG, §15 and affected by §70, is further amended to read:

§ 1310-U. Municipal ordinances

Municipalities are not prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. Except as provided in section 2173, municipalities are ~~further~~ prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by the State or a state agency ~~or a regional association~~.

Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, municipalities, ~~except as provided in this section~~, may enact ordinances with respect to solid waste facilities that contain standards the municipality finds reasonable, including, without limitation, conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise heard outside the facility; distance from existing residential, commercial or institutional uses; ground water protection; surface water protection; erosion and sedimentation control; and compatibility of the solid waste facility with local zoning and land use controls, ~~provided that the standards are not more strict than those contained in this chapter and in chapter 3, subchapter I, articles 5-A and 6 and the rules adopted under these articles~~. Municipal ordinances must use definitions consistent with those adopted by the board.

A municipality adopting an ordinance under this section shall forward a copy of the ordinance to the commissioner within 30 days of its adoption.

Sec. 3. 38 MRSA §1310-AA, sub-§1-A, ¶D, as amended by PL 2011, c. 566, §2, is further amended to read:

D. For purposes of this subsection, "waste that is generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State only if the residue or bypass is generated from waste that originated in the State; waste ~~whether~~ generated within the State ~~or outside of the State~~ used for daily cover, frost protection or stability in accordance with all applicable rules and licenses; and waste generated within 30 miles of the solid waste disposal facility.

Sec. 4. Moratorium on licenses for solid waste disposal facilities. Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 302, the Department of Environmental Protection may not issue a license for an expanded solid waste disposal facility that is a landfill until one year after the effective date of this Act. This section applies to any application for an expanded solid waste disposal facility that is a landfill pending on or filed after the effective date of this Act.

Sec. 5. Study. The Department of Environmental Protection shall study and identify best practices to reduce the amount of solid waste disposed in landfills in the State, increase recycling of solid waste in the State and generate revenue from recycling for municipalities. The study must include an evaluation of the origin, destination, quantity and composition of waste originating out of the State and disposed in landfills in the State. The cost of the study is an administrative expense and must be funded by fees imposed pursuant to the Maine Revised Statutes, Title 38, chapter 24, subchapter 7, article 2. The fees imposed pursuant to Title 38, chapter 24, subchapter 7, article 2 may not be increased to fund the study. The department shall report its findings to the Joint Standing Committee on Environment and Natural Resources no later than January 3, 2014 and the committee may submit legislation based on the department's study to the Second Regular Session of the 126th Legislature.

SUMMARY

This bill amends the definition of waste generated in the State by providing that residue and bypass must have been generated from waste that originated in the State to be considered waste generated in the State. The bill also allows municipalities to enact ordinances with respect to solid waste facilities that contain standards that are stricter than state law. The bill also imposes a one-year moratorium on the issuance of licenses for expanded landfills. It directs the Department of Environmental Protection to study and identify best practices to reduce the amount of solid waste disposed in landfills, increase recycling of solid waste and generate revenue from recycling for municipalities. The department is required to report its findings to the Joint Standing Committee on Environment and Natural Resources.