



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

---

Legislative Document

No. 1363

---

H.P. 971

House of Representatives, April 9, 2013

### An Act To Ensure Landfill Capacity and Promote Recycling

---

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CHIPMAN of Portland.  
Cosponsored by Senator PATRICK of Oxford and  
Representatives: CAMPBELL of Orrington, DORNEY of Norridgewock, GUERIN of  
Glenburn, LIBBY of Lewiston, MITCHELL of the Penobscot Nation, PEAVEY HASKELL of  
Milford, Senators: GRATWICK of Penobscot, WHITTEMORE of Somerset.

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

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

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

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

14 **§1310-U. Municipal ordinances**

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

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

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

36 **Sec. 3. 38 MRSA §1310-AA, sub-§1-A, ¶D**, as amended by PL 2011, c. 566,  
37 §2, is further amended to read:

38 D. For purposes of this subsection, "waste that is generated within the State" includes  
39 residue and bypass generated by incineration, processing and recycling facilities  
40 within the State only if the residue or bypass is generated from waste that originated

1 ~~in the State; waste whether generated within the State or outside of the State~~ used for  
2 daily cover, frost protection or stability in accordance with all applicable rules and  
3 licenses; and waste generated within 30 miles of the solid waste disposal facility.

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

10 **Sec. 5. Study.** The Department of Environmental Protection shall study and  
11 identify best practices to reduce the amount of solid waste disposed in landfills in the  
12 State, increase recycling of solid waste in the State and generate revenue from recycling  
13 for municipalities. The study must include an evaluation of the origin, destination,  
14 quantity and composition of waste originating out of the State and disposed in landfills in  
15 the State. The cost of the study is an administrative expense and must be funded by fees  
16 imposed pursuant to the Maine Revised Statutes, Title 38, chapter 24, subchapter 7,  
17 article 2. The fees imposed pursuant to Title 38, chapter 24, subchapter 7, article 2 may  
18 not be increased to fund the study. The department shall report its findings to the Joint  
19 Standing Committee on Environment and Natural Resources no later than January 3,  
20 2014 and the committee may submit legislation based on the department's study to the  
21 Second Regular Session of the 126th Legislature.

22 **SUMMARY**

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