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**ENVIRONMENT AND NATURAL RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 94, L.D. 112, Bill, “An Act To Implement Changes to Maine's Solid Waste Laws Pursuant to a Review of the State Waste Management and Recycling Plan”

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'PART A**

**Sec. A-1. 38 MRSA §1303-C, sub-§1-C**, as enacted by PL 2007, c. 338, §1 and affected by §5 and enacted by c. 414, §1, is amended to read:

**1-C. Bypass.** "Bypass" means any solid waste that is destined for disposal, processing or beneficial use at a an operating solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility's temporary malfunction, temporary insufficient capacity, temporary inability to process or burn; or temporary downtime or any other comparable reason. For the purposes of this subsection, "operating solid waste facility" means a licensed solid waste facility that is fully operational at the time that the malfunction, insufficient capacity, inability to process or burn or downtime begins and that intends to resume full operation at the time that the malfunction, insufficient capacity, inability to process or burn or downtime ends.

**Sec. A-2. 38 MRSA §2152-A** is enacted to read:

**§2152-A. State-owned solid waste disposal facilities; purpose, management and operation; disposal of municipal solid waste**

**1. Purpose of State-owned solid waste disposal facilities.** The Legislature finds that the purpose of State-owned solid waste disposal facilities is to ensure that adequate disposal capacity is available for the disposal of solid waste generated within the State through the development of new disposal capacity for anticipated state disposal capacity needs and the operation of existing facilities to address current state disposal capacity needs.

**COMMITTEE AMENDMENT**



1           **2. Hazardous waste information and information on mercury-added products**  
2 **and electronic devices; chemicals; recyclables.** Information relating to hazardous  
3 waste submitted to the department under this subchapter, information relating to mercury-  
4 added products submitted to the department under chapter 16-B, information relating to  
5 electronic devices submitted to the department under section 1610, subsection 6-A,  
6 information related to priority toxic chemicals submitted to the department under chapter  
7 ~~27~~, information related to products that contain the "deca" mixture of polybrominated  
8 diphenyl ethers submitted to the department under section 1609 or information related to  
9 reporting on reportable recyclable materials submitted to the department under section  
10 2145 may be designated by the person submitting it as being only for the confidential use  
11 of the department, its agents and employees, the Department of Agriculture, Conservation  
12 and Forestry and the Department of Health and Human Services and their agents and  
13 employees, other agencies of State Government, as authorized by the Governor,  
14 employees of the United States Environmental Protection Agency and the Attorney  
15 General and, for waste information, employees of the municipality in which the waste is  
16 located. The designation must be clearly indicated on each page or other portion of  
17 information. The commissioner shall establish procedures to ensure that information so  
18 designated is segregated from public records of the department. The department's public  
19 records must include the indication that information so designated has been submitted to  
20 the department, giving the name of the person submitting the information and the general  
21 nature of the information. Upon a request for information, the scope of which includes  
22 information so designated, the commissioner shall notify the submittor. Within 15 days  
23 after receipt of the notice, the submittor shall demonstrate to the satisfaction of the  
24 department that the designated information should not be disclosed because the  
25 information is a trade secret or production, commercial or financial information, the  
26 disclosure of which would impair the competitive position of the submittor and would  
27 make available information not otherwise publicly available. Unless such a  
28 demonstration is made, the information must be disclosed and becomes a public record.  
29 The department may grant or deny disclosure for the whole or any part of the designated  
30 information requested and within 15 days shall give written notice of the decision to the  
31 submittor and the person requesting the designated information. A person aggrieved by a  
32 decision of the department may appeal only to the Superior Court in accordance with the  
33 provisions of section 346. All information provided by the department to the  
34 municipality under this subsection is confidential and not a public record under Title 1,  
35 chapter 13. In the event a request for such information is submitted to the municipality,  
36 the municipality shall submit that request to the commissioner to be processed by the  
37 department as provided in this subsection.

38           **Sec. B-2. 38 MRSA §2101-A, sub-§§4 and 5** is enacted to read:

39           **4. Recycling establishment.** "Recycling establishment" means an establishment  
40 engaged in the marketing, brokering or purchasing of reportable recyclable materials  
41 generated in the State. "Recycling establishment" does not include an establishment that  
42 directs all reportable recyclable materials it markets, brokers or purchases to brokers and  
43 purchasers that are located in the State.

44           **5. Reportable recyclable materials.** "Reportable recyclable materials" means any  
45 of the following categories of recyclable materials that are separated from household,  
46 commercial or institutional waste and that are delivered to a recycling establishment for

1 recycling: glass; cardboard, paper and paper products; plastic and plastic products;  
2 cartons, laminated materials and other packaging; nonferrous and ferrous metals,  
3 including white goods; textiles; and mixed streams of recyclable materials that include  
4 any combination of the materials listed in this subsection.

5 **Sec. B-3. 38 MRSA §2124-A, first ¶**, as amended by PL 2017, c. 376, §2, is  
6 further amended to read:

7 By January 1, ~~2020~~ 2021 and biennially thereafter, the department shall submit a  
8 report to the joint standing committee of the Legislature having jurisdiction over  
9 environmental and natural resources matters and the Governor setting forth information  
10 on statewide generation of solid waste, statewide recycling rates and available disposal  
11 capacity for solid waste.

12 **Sec. B-4. 38 MRSA §2133, sub-§7**, as amended by PL 2011, c. 655, Pt. GG, §33  
13 and affected by §70, is further amended to read:

14 **7. Recycling progress reports.** Municipalities shall report ~~annually~~ biennially, on  
15 forms provided by the department, on their solid waste management and recycling  
16 practices. ~~The annual biennial report must include how much of each type of solid waste~~  
17 ~~is generated and how that solid waste is managed~~ identify the options available to  
18 residents and businesses within the municipality for managing solid waste, including any  
19 provisions for the separate management of reportable recyclable materials and organic  
20 waste and the disposal of other municipal solid waste, including construction and  
21 demolition debris. The department shall assist ~~municipal reporting~~ municipalities in  
22 developing and tracking a municipal or regional recycling rate by developing a municipal  
23 waste stream management assessment model. The model must rely on actual waste data  
24 whenever possible, but incorporate default generation estimates when needed. Default  
25 generation estimates must incorporate factors such as commercial activity, geographical  
26 differences and municipal population.

27 **Sec. B-5. 38 MRSA §2145** is enacted to read:

28 **§2145. Recycling reporting**

29 **1. Reporting requirement.** Beginning March 1, 2020 and annually thereafter, a  
30 recycling establishment shall report to the department regarding its recycling of  
31 reportable recyclable materials generated in the State. The report must be on a form  
32 provided by or a format approved by the department and must include:

33 A. The business name, mailing address, physical address, e-mail address, contact  
34 person and telephone number of the recycling establishment;

35 B. The amount in tons of each category of reportable recyclable materials, by  
36 generator, received by the recycling establishment; and

37 C. The amount in tons of each category of reportable recyclable materials, by  
38 destination, shipped by the recycling establishment.

39 The report must specify the quantity of reportable recyclable materials required to be  
40 reported under paragraphs B and C delineated into distinct material types to the extent  
41 possible. If the report specifies the quantity of reportable recyclable materials as  
42 determined using a volume-to-weight conversion formula, the report must include that

1 conversion formula for review and approval by the department. The report may provide  
2 an aggregate quantity for multiple locations operated by a recycling establishment as long  
3 as the report specifically identifies each location used in determining the aggregate  
4 quantity.

5 The department shall establish reporting guidelines to ensure that reportable recyclable  
6 materials to be included in a report under this subsection are not counted more than once.

7 **2. Data aggregation.** The department shall aggregate data contained within the  
8 reports submitted under this section for the purpose of determining statewide quantities of  
9 reportable recyclable materials recycled.

10 **3. Confidentiality.** Information submitted to the department pursuant to this section  
11 may be designated as confidential by the submitting party in accordance with the  
12 provisions of section 1310-B and, if the information is so designated, the provisions of  
13 section 1310-B apply.'

## 14 SUMMARY

15 This amendment replaces the bill, which is a concept draft, and makes the following  
16 changes to the State's solid waste management laws.

17 Part A of the amendment:

18 1. Amends a definition in the State's solid waste management laws for the term  
19 "bypass";

20 2. Specifies through legislative findings and statements of legislative intent that the  
21 purpose, management and operation of State-owned solid waste disposal facilities must  
22 be consistent with the solid waste management hierarchy under the Maine Revised  
23 Statutes, Title 38, section 2101;

24 3. Stipulates that the Department of Environmental Protection may authorize the land  
25 disposal of non-bypass, unprocessed municipal solid waste at State-owned solid waste  
26 disposal facilities only when a specific need for the disposal has been identified by the  
27 Department of Administrative and Financial Services, Bureau of General Services and the  
28 facility operator, the disposal is consistent with the solid waste management hierarchy  
29 and options for the management of the waste that represent a higher priority on the  
30 hierarchy are not otherwise reasonably available; and

31 4. Authorizes the Department of Environmental Protection to limit the volume of  
32 municipal solid waste disposed of at a State-owned solid waste disposal facility and the  
33 duration of such disposal through imposition of such limitations under the facility's  
34 license.

35 Part B of the amendment:

36 1. Requires that, beginning March 1, 2020 and annually thereafter, a recycling  
37 establishment engaged in the marketing, brokering or purchasing of recyclable materials  
38 generated in the State report to the department regarding its recycling of such materials;

39 2. Clarifies the existing recycling reporting requirement for municipalities and  
40 changes the reporting to biennial rather than annual; and

- 1           3. Changes the existing due date for the department's report on statewide generation
- 2 of solid waste, recycling rates and available disposal capacity to the joint standing
- 3 committee of the Legislature having jurisdiction over environmental and natural
- 4 resources matters from January 1, 2020 and biennially thereafter to January 1, 2021 and
- 5 biennially thereafter.