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Legislative Document

No. 1639

S.P. 523

In Senate, May 5, 2021

**An Act To Protect the Health and Welfare of Maine Communities
and Reduce Harmful Solid Waste**

Received by the Secretary of the Senate on May 3, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARNEY of Cumberland.
Cosponsored by Representative NEWELL of the Passamaquoddy Tribe and
Senators: BENNETT of Oxford, BRENNER of Cumberland, President JACKSON of
Aroostook, Representatives: COLLINGS of Portland, DOUDERA of Camden, Speaker
FECTEAU of Biddeford, GROHOSKI of Ellsworth, WILLIAMS of Bar Harbor.

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

2 **Sec. 1. 38 MRSA §1303-C, sub-§40-A, ¶B**, as enacted by PL 2019, c. 619, §3, is
3 amended to read:

4 B. Residue generated by an incineration facility or a recycling facility that is located
5 within the State, regardless of whether the waste incinerated or processed by that
6 facility was initially generated within the State or outside the State, as long as the
7 weight of the residue disposed of by that facility at a solid waste landfill does not
8 exceed the weight of the solid waste initially generated within the State that was
9 processed by that facility during the annual reporting period for that facility;

10 **Sec. 2. 38 MRSA §1303-C, sub-§40-A, ¶C**, as enacted by PL 2019, c. 619, §3, is
11 amended to read:

12 C. Residue generated by a solid waste processing facility that is located within the
13 State, regardless of whether the waste processed by that facility was initially generated
14 within the State or outside the State, as long as:

15 (1) The residue is used at a solid waste landfill for daily cover, frost protection or
16 other operational or engineering-related purpose, including, but not limited to,
17 landfill shaping or grading, and such use has been approved by the department
18 under the landfill's license and such use complies with all applicable rules of the
19 department and all applicable conditions of the landfill's license; ~~and~~

20 (2) The use of the residue under subparagraph (1) complies with the requirements
21 of section 1310-N, subsection 5-A, paragraph B, subparagraph (2); ~~and~~

22 (3) The weight of the residue disposed of by that facility at a solid waste landfill
23 does not exceed the weight of the solid waste initially generated within the State
24 that was processed by that facility during the annual reporting period for that
25 facility;

26 **Sec. 3. 38 MRSA §1303-C, sub-§40-A, ¶E**, as enacted by PL 2019, c. 619, §3, is
27 amended to read:

28 E. Residue generated by a solid waste processing facility that is located within the
29 State, regardless of whether the waste processed by that facility was initially generated
30 within the State or outside the State, as long as:

31 (1) The residue does not meet the requirements of paragraph C or D;

32 (2) The residue is not considered recycled under section 1310-N, subsection 5-A,
33 paragraph B, subparagraph (2) and is disposed of at a solid waste landfill; ~~and~~

34 (3) The solid waste processing facility is in compliance with the requirements of
35 section 1310-N, subsection 5-A, paragraph B, subparagraph (2); ~~and~~

36 (4) The weight of the residue disposed of by that facility at a solid waste landfill
37 does not exceed the weight of the solid waste initially generated within the State
38 that was processed by that facility during the annual reporting period for that
39 facility.

40 **Sec. 4. 38 MRSA §1310-N, sub-§5-A, ¶B**, as amended by PL 2019, c. 619, §4, is
41 further amended by amending subparagraph (2) to read:

1 (2) A solid waste processing facility that generates residue requiring disposal shall
2 recycle or process into fuel for combustion all waste accepted at the facility to the
3 maximum extent practicable, but in no case at a rate less than 50%. For purposes
4 of this subsection, "recycle" includes, but is not limited to, the reuse of waste
5 generated within the State as defined in section 1303-C, subsection 40-A,
6 paragraph C; the recovery of metals from waste; the use of waste or waste-derived
7 product as material substitutes in construction; and the use of waste as boiler fuel
8 substitutes.

9 At least 50% of the waste that a solid waste processing facility characterizes as
10 recycled under this subparagraph must have been reused or recycled by the facility
11 through methods other than placement of the waste in a solid waste landfill, ~~except~~
12 ~~that a solid waste processing facility that was in operation during calendar year~~
13 ~~2018, that accepts exclusively construction and demolition debris and that accepted~~
14 ~~more than 200,000 tons of such debris in calendar year 2018 shall:~~

15 (a) ~~Reuse or recycle at least 15% of such debris through methods other than~~
16 ~~placement in a solid waste landfill by January 1, 2022; and~~

17 (b) ~~Reuse or recycle at least 20% of such debris through methods other than~~
18 ~~placement in a solid waste landfill by January 1, 2023.~~

19 ~~A solid waste processing facility that was in operation during calendar year 2018,~~
20 ~~that accepts exclusively construction and demolition debris and that accepted more~~
21 ~~than 200,000 tons of such debris in calendar year 2018 may request and the~~
22 ~~department may grant a waiver of the applicable provisions of this subparagraph~~
23 ~~for a specified period of time if the facility is able to demonstrate that compliance~~
24 ~~with the applicable provisions of this subparagraph would result in an unreasonable~~
25 ~~adverse impact on the facility. The demonstration may include results of a 3rd-~~
26 ~~party audit of the facility. In determining whether to grant such a waiver request,~~
27 ~~the department may consider trends in local, regional, national and international~~
28 ~~markets; the availability and cost of technologies and services; transportation and~~
29 ~~handling logistics; and overall costs that may be associated with various waste~~
30 ~~handling methods.~~

31 **Sec. 5. 38 MRSA §1310-AA, sub-§3, ¶C**, as amended by PL 2007, c. 338, §3 and
32 affected by c. 338, §5, is further amended to read:

33 C. Is not inconsistent with local, regional or state waste collection, storage,
34 transportation, processing or disposal; ~~and~~

35 **Sec. 6. 38 MRSA §1310-AA, sub-§3, ¶D**, as amended by PL 2007, c. 655, §10,
36 is further amended to read:

37 D. For a determination of public benefit under subsection 1-A only, facilitates the
38 operation of a solid waste disposal facility and the operation of that solid waste disposal
39 facility would be precluded or significantly impaired if the waste is not accepted; ~~and~~

40 **Sec. 7. 38 MRSA §1310-AA, sub-§3, ¶E** is enacted to read:

41 E. For a proposed facility or the expansion of a facility, is not inconsistent with
42 ensuring environmental justice for the community in which the facility or expansion is
43 proposed.

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SUMMARY

2 This bill amends the definition of "waste generated within the State" to limit the amount
3 of the residue that may be disposed of by an incineration, recycling and processing facility
4 at a solid waste landfill in the State to the weight of the solid waste initially generated in
5 the State by that facility during its annual reporting period. The bill eliminates the
6 provisions of the law regarding recycling and source reduction requirements for solid waste
7 processing facilities that were in operation during calendar year 2018 and that accept
8 exclusively construction and demolition debris. It adds environmental justice to the public
9 benefit determination standards for solid waste disposal facilities.