§159-B. Limited liability for recycling activities by municipalities and regional associations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Premises" means improved and unimproved lands upon which recycling activities are conducted. [PL 1991, c. 487, §1 (NEW).]

B. "Recycling activities" means collection or separation or both of materials on the property of a municipality or in containers:

(1) Owned by a municipality or regional association as defined in Title 38, section 1303-C, subsection 24; and

(2) Located on the premises of the owner, lessee or occupant under an agreement between the municipality or regional association and the owner, lessee or occupant of the premises. [PL 2023, c. 350, §1 (AMD).]

[PL 2023, c. 350, §1 (AMD).]

2. No remuneration. The owner, lessee or occupant of the premises may not receive any remuneration from the municipality or regional association for allowing recycling activities to be conducted on the premises.

[PL 1991, c. 487, §1 (NEW).]

3. Limited liability. An owner, lessee or occupant of the premises is not liable for personal injury, property damage or death caused by recycling activities within 20 feet of the containers used in recycling activities. The containers used in recycling activities are considered other machinery or equipment, whether mobile or stationary, under Title 14, section 8104-A, subsection 1, paragraph G for which the municipality or regional association is liable as provided by the Maine Tort Claims Act.

[PL 1991, c. 487, §1 (NEW).]

4. Limitations. This section does not limit any liability that may otherwise exist for a willful or malicious failure to guard or warn against a dangerous condition on the premises related to the recycling activities.

[PL 1991, c. 487, §1 (NEW).]

4-A. Municipal immunity. Except as provided in subsection 4, a municipality performing recycling activities in accordance with this subsection is performing a discretionary function pursuant to section 8104-B, subsection 3 and is immune from liability for personal injury, property damage or death, including of a member of the public, caused by recycling activities of the municipality on property owned by the municipality or on the premises of another person. A municipality is immune from liability under this subsection only if the municipality has adopted and regularly enforces a written policy establishing reasonable safety standards applicable to the premises where the municipality performs recycling activities. A written policy adopted under this subsection must be developed by a credentialed industrial hygienist and must comply with United States Department of Labor, Occupational Safety and Health Administration requirements. As used in this subsection, "credentialed industrial hygienist" means an industrial hygienist certified by a national association of industrial hygiene professionals.

[PL 2023, c. 350, §2 (NEW).]

5. No duty created. Nothing in this section creates a duty of care or ground of liability for injury to a person or property.

[PL 1991, c. 487, §1 (NEW).]

6. Costs and fees. The court may award any direct legal costs, including reasonable attorney's fees, to an owner, lessee or occupant who is found not to be liable for injury to a person or property pursuant to this section.

[PL 1991, c. 487, §1 (NEW).]

7. Repeal.

[PL 1993, c. 598, §1 (RP).]

SECTION HISTORY

PL 1991, c. 487, §1 (NEW). PL 1993, c. 598, §1 (AMD). PL 2023, c. 350, §§1, 2 (AMD).

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