

H. R. 4779

AN ACT

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State and Local Gov-
5 ernment Interstate Waste Control Act of 1994”.

6 **SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF**
7 **MUNICIPAL SOLID WASTE.**

8 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
9 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
10 after section 4010 the following new section:

1 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**
2 **OF MUNICIPAL SOLID WASTE.**

3 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE
4 WASTE.—

5 “(1) IN GENERAL.—

6 “(A) AUTHORIZATION.—A landfill or incin-
7 erator in a State may not receive for disposal
8 or incineration any out-of-State municipal solid
9 waste unless the owner or operator of such
10 landfill or incinerator obtains explicit authoriza-
11 tion (as part of a host community agreement)
12 from the affected local government to receive
13 the waste.

14 “(B) REQUIREMENTS FOR AUTHORIZA-
15 TION.—An authorization granted pursuant to
16 subparagraph (A) shall—

17 “(i) be granted by formal action at a
18 meeting;

19 “(ii) be recorded in writing in the offi-
20 cial record of the meeting; and

21 “(iii) remain in effect according to its
22 terms.

23 “(C) DISCRETIONARY TERMS AND CONDI-
24 TIONS.—An authorization granted pursuant to
25 subparagraph (A) may specify terms and condi-
26 tions, including an amount of out-of-State

1 waste that an owner or operator may receive
2 and the duration of the authorization.

3 “(D) NOTIFICATION.—Promptly, but not
4 later than 90 days after an authorization is
5 granted, the affected local government shall no-
6 tify the Governor, contiguous local govern-
7 ments, and any contiguous Indian tribes of an
8 authorization granted under this subsection.

9 “(2) INFORMATION.—Prior to seeking an au-
10 thorization to receive out-of-State municipal solid
11 waste pursuant to this subsection, the owner or op-
12 erator of the facility seeking such authorization shall
13 provide (and make readily available to the Governor,
14 each contiguous local government and Indian tribe,
15 and any other interested person for inspection and
16 copying) the following information:

17 “(A) A brief description of the facility, in-
18 cluding, with respect to both the facility and
19 any planned expansion of the facility, the size,
20 ultimate waste capacity, and the anticipated
21 monthly and yearly quantities of (expressed in
22 terms of volume) waste to be handled.

23 “(B) A map of the facility site indicating
24 location in relation to the local road system and
25 topography and hydrogeological features. The

1 map shall indicate any buffer zones to be ac-
2 quired by the owner or operator as well as all
3 facility units.

4 “(C) A description of the then current en-
5 vironmental characteristics of the site, a de-
6 scription of ground water use in the area (in-
7 cluding identification of private wells and public
8 drinking water sources), and a discussion of al-
9 terations that may be necessitated by, or occur
10 as a result of, the facility.

11 “(D) A description of environmental con-
12 trols typically required to be used on the site
13 (pursuant to permit requirements), including
14 run on or run off management (or both), air
15 pollution control devices, source separation pro-
16 cedures (if any), methane monitoring and con-
17 trol, landfill covers, liners or leachate collection
18 systems, and monitoring programs. In addition,
19 the description shall include a description of
20 any waste residuals generated by the facility,
21 including leachate or ash, and the planned man-
22 agement of the residuals.

23 “(E) A description of site access controls
24 to be employed, and roadway improvements to
25 be made, by the owner or operator, and an esti-

1 mate of the timing and extent of increased local
2 truck traffic.

3 “(F) A list of all required Federal, State,
4 and local permits.

5 “(G) Estimates of the personnel require-
6 ments of the facility, including information re-
7 garding the probable skill and education levels
8 required for jobs at the facility. To the extent
9 practicable, the information shall distinguish
10 between employment statistics for
11 preoperational and postoperational levels.

12 “(H) Any information that is required by
13 State or Federal law to be provided with re-
14 spect to any violations of environmental laws
15 (including regulations) by the owner, the opera-
16 tor, and any subsidiary of the owner or opera-
17 tor, the disposition of enforcement proceedings
18 taken with respect to the violations, and correc-
19 tive action and rehabilitation measures taken as
20 a result of the proceedings.

21 “(I) Any information that is required by
22 State or Federal law to be provided with re-
23 spect to gifts and contributions made by the
24 owner or operator.

1 “(J) Any information that is required by
2 State or Federal law to be provided with re-
3 spect to compliance by the owner or operator
4 with the State solid waste management plan.

5 “(3) NOTIFICATION.—Prior to taking formal
6 action with respect to granting authorization to re-
7 ceive out-of-State municipal solid waste pursuant to
8 this subsection, an affected local government shall—

9 “(A) notify the Governor, contiguous local
10 governments, and any contiguous Indian tribes;

11 “(B) publish notice of the action in a
12 newspaper of general circulation at least 30
13 days before holding a hearing and again at
14 least 15 days before holding the hearing, except
15 where State law provides for an alternate form
16 of public notification; and

17 “(C) provide an opportunity for public
18 comment in accordance with State law, includ-
19 ing at least 1 public hearing.

20 “(b) AUTHORIZATION NOT REQUIRED FOR CERTAIN
21 FACILITIES.—

22 “(1) IN GENERAL.—A landfill or incinerator
23 may receive for disposal or incineration out-of-State
24 municipal solid waste in the absence of an authoriza-

1 tion under subsection (a) if each of the following re-
2 quirements are met:

3 “(A) The owner or operator shall provide
4 either of the following to the Governor of the
5 State in which the landfill or incinerator is lo-
6 cated and to the affected local government:

7 “(i) Information establishing that, be-
8 fore the date of the enactment of this sec-
9 tion, the owner or operator of the landfill
10 or incinerator has entered into a host com-
11 munity agreement or received a State per-
12 mit, specifically authorizing the owner or
13 operator to accept, at the landfill or incin-
14 erator, out-of-State municipal solid waste.
15 This clause shall be effective only if the
16 owner or operator complies with all of the
17 terms and conditions of the host commu-
18 nity agreement or permit and, in the case
19 of a permit, notifies the affected local gov-
20 ernment of the permit, as soon as prac-
21 ticable but not later than 90 days after the
22 date of enactment of this section.

23 “(ii) Information establishing that
24 during 1993, the landfill or incinerator re-
25 ceived shipments of out-of-State municipal

1 solid waste. Such information shall be in
2 such documented form as will result in
3 criminal penalties under State law in case
4 of false or misleading information. Such
5 information shall include information
6 about the date of shipment, place of origin
7 of the waste, and the type of waste.

8 “(B) In the case of a landfill or incinerator
9 in operation on the date of the enactment of
10 this section, the landfill or incinerator must be
11 in compliance as of such date with applicable
12 Federal and State environmental laws (includ-
13 ing regulations), including, in the case of land-
14 fills, applicable laws and regulations relating to
15 design and location standards, leachate collec-
16 tion, ground water monitoring, and financial as-
17 surance for closure and post-closure care and
18 corrective action.

19 “(2) AMOUNT RECEIVED UNDER PARAGRAPH
20 (1)(A)(ii).—

21 “(A) STATES NOT EXERCISING RATCHET
22 AUTHORITY UNDER (c)(5).—

23 “(i) FACILITIES COVERED.—This sub-
24 paragraph shall cover only landfills and in-
25 cinerators in States which do not establish

1 a limit on out-of-State municipal solid
2 waste under subsection (c)(5).

3 “(ii) WASTE UNDER CONTRACT.—For
4 any landfill or incinerator covered by this
5 subparagraph and authorized to receive
6 out-of-State municipal solid waste pursu-
7 ant to paragraph (1)(A)(ii), if out-of-State
8 municipal solid waste was received at such
9 landfill or incinerator during 1993 under a
10 contract, paragraph (1)(A)(ii) shall apply
11 to the amount of out-of-State municipal
12 solid waste specified in the contract for the
13 longer of the following periods:

14 “(I) The life of the contract.

15 “(II) The period ending 6 years
16 after the enactment of this section.

17 For purposes of subclause (I), the term
18 ‘life of the contract’ shall not include any
19 renewal, novation, or other extension there-
20 of (as determined under State law).

21 “(iii) SPOT WASTE.—For a landfill or
22 incinerator covered by this subparagraph
23 and authorized to receive out-of-State mu-
24 nicipal solid waste pursuant to paragraph
25 (1)(A)(ii), if out-of-State municipal solid

1 waste was received at such landfill or in-
2 cinerator during 1993 in the absence of a
3 contract, paragraph (1)(A)(ii) shall apply
4 to the receipt of out-of-State municipal
5 solid waste for a period ending 3 years
6 after the enactment of this section.

7 “(iv) CONTRACT AND SPOT WASTE.—
8 For any landfill or incinerator covered by
9 this subparagraph and authorized to re-
10 ceive out-of-State municipal solid waste
11 pursuant to paragraph (1)(A)(ii), if out-of-
12 State municipal solid waste was received at
13 such landfill or incinerator during 1993
14 both under a contract and otherwise,
15 clause (ii) shall apply with respect to the
16 waste received under the contract and
17 clause (iii) shall apply to the other munici-
18 pal solid waste received at the landfill or
19 incinerator.

20 “(B) STATES EXERCISING RATCHET AU-
21 THORITY UNDER (c)(5).—

22 “(i) FACILITIES COVERED.—This sub-
23 paragraph shall cover only landfills and in-
24 cinerators in States which establish a limit

1 on out-of-State municipal solid waste
2 under subsection (c)(5).

3 “(ii) WASTE UNDER CONTRACT.—For
4 any landfill or incinerator covered by this
5 subparagraph and authorized to receive
6 out-of-State municipal solid waste pursu-
7 ant to paragraph (1)(A)(ii), if out-of-State
8 municipal solid waste was received at such
9 landfill or incinerator during 1993 under a
10 contract, paragraph (1)(A)(ii) shall apply
11 to the amount of out-of-State municipal
12 solid waste specified in the contract for the
13 longer of the following periods:

14 “(I) The life of the contract.

15 “(II) The period ending January
16 1, 2000.

17 For purposes of subclause (I), the term
18 ‘life of the contract’ shall not include any
19 renewal, novation, or other extension there-
20 of (as determined under State law).

21 “(iii) SPOT WASTE.—For a landfill or
22 incinerator covered by this subparagraph
23 and authorized to receive out-of-State mu-
24 nicipal solid waste pursuant to paragraph
25 (1)(A)(ii), if out-of-State municipal solid

1 waste was received at such landfill or in-
2 cinerator during 1993 in the absence of a
3 contract, paragraph (1)(A)(ii) shall apply
4 to the receipt of out-of-State municipal
5 solid waste for a period ending January 1,
6 2000.

7 “(iv) CONTRACT AND SPOT WASTE.—
8 For any landfill or incinerator covered by
9 this subparagraph and authorized to re-
10 ceive out-of-State municipal solid waste
11 pursuant to paragraph (1)(A)(ii), if out-of-
12 State municipal solid waste was received at
13 such landfill or incinerator during 1993
14 both under a contract and otherwise,
15 clause (ii) shall apply with respect to the
16 waste received under the contract and
17 clause (iii) shall apply to the other munici-
18 pal solid waste received at the landfill or
19 incinerator.

20 “(3) AVAILABILITY OF DOCUMENTATION.—The
21 owner or operator of a landfill or incinerator which
22 is exempt under paragraph (1) of this subsection
23 from the requirements of subsection (a) shall provide
24 to the State and affected local government, and
25 make available for inspection by the public in the af-

1 affected local community, a copy of the host commu-
2 nity agreement or other documentation required
3 under paragraph (1). The owner or operator may
4 omit any proprietary information contained in the
5 contracts, but shall ensure that at least the following
6 information is apparent: the volume of out-of-State
7 municipal solid waste to be received, the source of
8 the waste, and the duration of the contract.

9 “(4) DENIED OR REVOKED PERMITS.—A land-
10 fill or incinerator may not receive for disposal or in-
11 cineration out-of-State municipal solid waste in the
12 absence of a host community agreement if the oper-
13 ating permit or license for the landfill or incinerator
14 (or renewal thereof) was denied or revoked by the
15 appropriate State agency before the date of enact-
16 ment of this section unless such permit or license (or
17 renewal) has been reinstated as of such date of en-
18 actment.

19 “(5) WASTE WITHIN BI-STATE METROPOLITAN
20 STATISTICAL AREAS.—The owner or operator of a
21 landfill or incinerator in a State may receive out-of-
22 State municipal solid waste without obtaining au-
23 thorization under subsection (a) from the affected
24 local government if the out-of-State waste is gen-
25 erated within, and the landfill or incinerator is lo-

1 cated within, the same bi-State level A metropolitan
2 statistical area (as defined by the Office of Manage-
3 ment and Budget and as listed by the Office of
4 Management and Budget as of the date of enact-
5 ment of this section) which contains two contiguous
6 major cities each of which is in a different State.

7 “(c) AUTHORITY OF STATE TO RESTRICT OUT-OF-
8 STATE MUNICIPAL SOLID WASTE.—

9 “(1) LIMITATIONS ON AMOUNT OF WASTE RE-
10 CEIVED.—

11 “(A) LIMIT FOR ALL FACILITIES IN THE
12 STATE.—A State may limit the amount of out-
13 of-State municipal solid waste received annually
14 for disposal at each landfill or incinerator in the
15 State to the limitation amount described in
16 paragraph (2), except as provided in this sub-
17 section. No such limit may conflict—

18 “(i) with provisions of a permit spe-
19 cifically authorizing the owner or operator
20 to accept, at the facility, out-of-State mu-
21 nicipal solid waste, or

22 “(ii) with a host community agree-
23 ment entered into between the owner or
24 operator of any such landfill or incinerator
25 and the affected local government.

1 “(B) CONFLICT.—A limit referred to in
2 subparagraph (A) shall be treated as conflicting
3 with a permit or host community agreement
4 if—

5 “(i) the permit or host community
6 agreement establishes a higher limit, or

7 “(ii) the permit or host community
8 agreement does not establish any limit,
9 on the amount of out-of-State municipal solid
10 waste which may be received annually at the
11 facility.

12 “(C) LIMIT FOR PARTICULAR FACILI-
13 TIES.—At the request of an affected local gov-
14 ernment that has not executed a host commu-
15 nity agreement, the State may limit the amount
16 of out-of-State municipal solid waste received
17 annually for disposal at the landfill or inciner-
18 ator concerned to the limitation amount de-
19 scribed in paragraph (2). No such limit may
20 conflict with provisions of a permit specifically
21 authorizing the owner or operator to accept, at
22 the facility, out-of-State municipal solid waste.

23 “(D) EFFECT ON OTHER LAWS.—Nothing
24 in this subsection shall be interpreted or con-

1 strued to have any effect on any State law re-
2 lating to contracts.

3 “(2) LIMITATION AMOUNT.—For any landfill or
4 incinerator that commenced receiving documented
5 out-of-State municipal solid waste before the date of
6 enactment of this section, the limitation amount re-
7 ferred to in paragraph (1) for any year shall be
8 equal to the amount of out-of-State municipal solid
9 waste received for disposal at the landfill or inciner-
10 ator concerned during calendar year 1993. The doc-
11 umentation referred to in this subparagraph shall be
12 such as would result in criminal penalties in case of
13 false or misleading information. Such documentation
14 shall include the amount of waste received, place of
15 origin, including the identity of the generator, date
16 of shipment, and type of waste.

17 “(3) OTHER LIMITATION AMOUNT.—(A) Except
18 as provided in subparagraph (B), the limitation
19 amount referred to in paragraph (1) shall be zero
20 for a landfill or incinerator authorized to receive out-
21 of-State municipal solid waste solely by reason of re-
22 ceipt in calendar year 1993 of municipal solid waste
23 that was not received under contract or otherwise
24 authorized under this section.

1 “(B) The limitation amount of zero referred to
2 in subparagraph (A) shall not be applicable to re-
3 ceipt of any out-of-State municipal solid waste by
4 the landfill or incinerator if the owner or operator,
5 on the date of enactment of this section, owned the
6 land on which the facility that received such waste
7 is located.

8 “(4) NO DISCRIMINATION.—In establishing a
9 limitation under this subsection, a State shall act in
10 a consistent manner that does not discriminate
11 against any shipments of out-of-State municipal
12 solid waste on the basis of State of origin.

13 “(5) ADDITIONAL LIMIT FOR MUNICIPAL
14 WASTE.—(A) Any State (hereinafter in this para-
15 graph referred to as an ‘importing State’) that im-
16 ported more than 750,000 tons of out-of-State mu-
17 nicipal solid waste in 1993 may establish a limit
18 under this paragraph on the amount of out-of-State
19 municipal solid waste received pursuant to the au-
20 thority of subsection (b)(1)(A)(ii) for disposal at
21 landfills and incinerators in the importing State. A
22 limit under this paragraph shall be in addition to, or
23 in lieu of, any other limit imposed under this sub-
24 section. A limit under this paragraph may be im-

1 posed only if each of the following requirements are
2 met:

3 “(i) The limit shall not conflict (within the
4 meaning of paragraph (1)(B)) with any permit
5 or host community agreement authorizing the
6 receipt of out-of-State municipal solid waste.

7 “(ii) The importing State shall notify the
8 Governor of the exporting State or States of the
9 proposed limit at least 12 months before im-
10 position of the limit.

11 “(iii) The importing State shall notify the
12 Governor of the exporting State or States of the
13 proposed limit at least 90 days before enforce-
14 ment of the limit.

15 “(iv) The percentage reduction in the
16 amount of out-of-State municipal solid waste
17 which is received at each facility in the import-
18 ing State at which a limit may be established
19 under this paragraph shall be uniform for all
20 such facilities.

21 “(B) The limit established under this para-
22 graph shall be a percentage of the amount of out-
23 of-State municipal solid waste generated in the ex-
24 porting State during calendar year 1993 and re-
25 ceived at facilities in the importing State in which

1 a limit is established under this paragraph. For any
 2 calendar year after 1994, the percentage shall be as
 3 specified in the following table:

“Calendar year:	Applicable Percentage:
1996	85
1997	75
1998	65
1999	55
after 1999	50.

4 “(d) NEEDS DETERMINATION.—Any comprehensive
 5 solid waste management plan approved under Federal or
 6 State law and any implementation of such plan through
 7 the State permitting process may take into account local
 8 and regional needs for solid waste disposal capacity. An
 9 affected local government may make a determination that
 10 there is no local or regional need for a new landfill or in-
 11 cinerator or major modification to an existing facility in
 12 the area under the jurisdiction of the affected local govern-
 13 ment. Such determination shall be based on a finding that
 14 the proposed facility does not have a host community
 15 agreement or is inconsistent with the capacity needs estab-
 16 lished in the comprehensive solid waste management plan
 17 adopted by the affected local government pursuant to
 18 State law. No comprehensive solid waste management plan
 19 may expressly prohibit the importation of municipal solid
 20 waste from out of State.

21 “(e) IMPLEMENTATION AND ENFORCEMENT.—Any
 22 State may adopt such laws and regulations, not inconsist-

1 ent with this section, as are necessary to implement and
2 enforce this section, including provisions for penalties.

3 “(f) EFFECT ON INTERSTATE COMMERCE.—No
4 State limitation established as provided in subsection (c),
5 no State planning and permitting process referred to in
6 subsection (d), and no State law or regulation referred to
7 in subsection (e) shall be considered to impose an undue
8 burden on interstate commerce or to otherwise impair, re-
9 strain, or discriminate against interstate commerce.

10 “(g) ANNUAL STATE REPORT.—Each year the owner
11 or operator of each landfill or incinerator receiving out-
12 of-State municipal solid waste shall submit to the Gov-
13 ernor of the State in which the landfill or incinerator is
14 located information specifying the amount of out-of-State
15 municipal solid waste received for disposal during the pre-
16 ceding year. Each year each such State shall publish and
17 make available to the public, a report containing informa-
18 tion on the amount of out-of-State municipal solid waste
19 received for disposal in the State during the preceding
20 year.

21 “(h) DEFINITIONS.—For purposes of this section:

22 “(1) AFFECTED LOCAL GOVERNMENT.—(A)
23 For any landfill or incinerator, the term ‘affected
24 local government’ shall mean—

1 “(i) the public body authorized by State
2 law to plan for the management of municipal
3 solid waste, a majority of the members of which
4 are elected officials, for the area in which the
5 landfill or incinerator is located or proposed to
6 be located, or

7 “(ii) if there is no such body created by
8 State law, the elected officials of the city, town,
9 township, borough, county, or parish exercising
10 primary responsibility for the use of land on
11 which the facility is located or proposed to be
12 located,

13 except that for purposes of host community agree-
14 ments entered into before the date of enactment of
15 this section, the term shall mean either the public
16 body described in subparagraph (A) or the elected
17 officials of the city, town, township, borough, county,
18 or parish exercising primary responsibility for the
19 use of land on which the facility is located or pro-
20 posed to be located. No host community agreement
21 that is entered into by the elected officials described
22 in clause (ii) may be overturned by an act of a pub-
23 lic body described in clause (i) of such body is cre-
24 ated by State law after the execution of such host
25 community agreement.

1 “(B) Two or more Governors of adjoining
2 States may use the authority provided in section
3 1005(b) to enter into an agreement under which
4 contiguous units of local government located in each
5 of the adjoining States may act jointly as the af-
6 fected local government for purposes of providing
7 authorization under subsection (a) for municipal
8 solid waste generated in one of such counties and re-
9 ceived for disposal or incineration in another.

10 “(2) HOST COMMUNITY AGREEMENT.—The
11 term ‘host community agreement’ means a written,
12 legally binding agreement, lawfully entered into be-
13 tween an owner or operator of a landfill or inciner-
14 ator and an affected local government that specifi-
15 cally authorizes the landfill or incinerator to receive
16 out-of-State municipal solid waste.

17 “(3) MUNICIPAL SOLID WASTE.—The term
18 ‘municipal solid waste’ means all waste materials
19 discarded for disposal by households, including sin-
20 gle and multifamily residences, and hotels and mo-
21 tels. The term also includes waste materials gen-
22 erated by commercial, institutional, and industrial
23 sources, to the extent such wastes are essentially the
24 same as waste normally generated by households or
25 were collected and disposed of with other municipal

1 solid waste as part of normal municipal solid waste
2 collection services, and regardless of when generated,
3 would be considered conditionally exempt small
4 quantity generator waste under section 3001(d). Ex-
5 amples of municipal solid waste include food and
6 yard waste, paper, clothing, appliances, consumer
7 product packaging, disposable diapers, office sup-
8 plies, cosmetics, glass and metal food containers, ele-
9 mentary or secondary school science laboratory
10 waste, and household hazardous waste. Such term
11 shall include debris resulting from construction, re-
12 modeling, repair, or demolition of structures other
13 than debris that is not otherwise commingled with
14 other municipal solid waste and has been determined
15 by the generator, to be contaminated. For purposes
16 of determining whether any such debris is contami-
17 nated, the generator shall conduct representative
18 sampling and analysis of such debris, the results of
19 which shall be submitted to the affected local gov-
20 ernment for record keeping purposes only, unless not
21 required by the affected local government. Any such
22 debris that has been determined to be contaminated
23 shall be disposed of in a landfill that meets, at a
24 minimum, the requirements of this subtitle. The
25 term does not include any of the following:

1 “(A) Any solid waste identified or listed as
2 a hazardous waste under section 3001.

3 “(B) Any solid waste, including contami-
4 nated soil and debris, resulting from—

5 “(i) a response action taken under
6 section 104 or 106 of the Comprehensive
7 Environmental Response, Compensation,
8 and Liability Act (42 U.S.C. 9604 or
9 9606),

10 “(ii) a response action taken under a
11 State law with authorities comparable to
12 the authorities of section 104 or 106, or

13 “(iii) a corrective action taken under
14 this Act.

15 “(C) Recyclable materials that have been
16 separated, at the source of the waste, from
17 waste otherwise destined for disposal or that
18 have been managed separately from waste des-
19 tined for disposal.

20 “(D) Materials and products returned
21 from a dispenser or distributor to the manufac-
22 turer or an agent of the manufacturer for cred-
23 it, evaluation, and possible reuse.

24 “(E) Any solid waste that is—

1 “(i) generated by an industrial facil-
2 ity; and

3 “(ii) transported for the purpose of
4 treatment, storage, or disposal to a facility
5 that is owned or operated by the generator
6 of the waste, or is located on property
7 owned by the generator of a company with
8 which the generator is affiliated.

9 “(F) Any medical waste that is segregated
10 from or not mixed with solid waste.

11 “(G) Sewage sludge and residuals from
12 any sewage treatment plant, including any sew-
13 age treatment plant required to be constructed
14 in the State of Massachusetts pursuant to any
15 court order issued against the Massachusetts
16 Water Resources Authority.

17 “(H) Combustion ash generated by re-
18 source recovery facilities or municipal inciner-
19 ators, or waste from manufacturing or process-
20 ing (including pollution control) operations not
21 essentially the same as waste normally gen-
22 erated by households.

23 “(4) OUT-OF-STATE MUNICIPAL SOLID
24 WASTE.—The term ‘out-of-State municipal solid
25 waste’, means, with respect to any State, municipal

1 solid waste generated outside of the State. The term
2 includes municipal solid waste generated outside of
3 the United States.

4 “(5) SPECIFIC AUTHORIZATION.—For purposes
5 of this section, the term ‘specifically authorizes’ re-
6 fers to an explicit authorization, contained in a host
7 community agreement or permit, to import waste
8 from outside the State. Such authorization may in-
9 clude a reference to a fixed radius surrounding the
10 landfill or incinerator which includes an area outside
11 the State or a reference to ‘any place of origin’, ref-
12 erence to specific places outside the State, or use of
13 such phrases as ‘regardless of origin’ or ‘outside the
14 State’. The language for such authorization may
15 vary as long as it clearly and affirmatively states the
16 approval or consent of the affected local government
17 or State for receipt of municipal solid waste from
18 sources or locations outside the State from which the
19 owner or operator of a landfill or incinerator pro-
20 poses to import it. The authorization shall not in-
21 clude general references to the receipt of waste out-
22 side the jurisdiction of the affected local government.

23 “(i) COST RECOVERY SURCHARGE.—

24 “(1) AUTHORITY.—A State may impose and
25 collect a cost recovery surcharge on the combustion

1 or disposal in a landfill or incinerator of out-of-State
2 municipal solid waste in such State.

3 “(2) LIMITATION.—During the period begin-
4 ning on the date of the enactment of this section
5 and ending on December 31, 1996, a State may not
6 impose or collect a cost recovery surcharge from a
7 facility on any out-of-State municipal solid waste
8 that meets both of the following conditions:

9 “(A) The waste is being received at the fa-
10 cility under one or more contracts entered into
11 before the date of the enactment of this section.

12 “(B) The amount of waste being received
13 in a calendar year under the contract or con-
14 tracts does not exceed the amount of waste re-
15 ceived at the facility during calendar year 1993.

16 “(3) AMOUNT OF SURCHARGE.—The amount of
17 the cost recovery surcharge may be no greater than
18 the amount necessary to recover those costs deter-
19 mined in conformance with paragraph (5) and in no
20 event may exceed \$2 per ton of waste.

21 “(4) USE OF SURCHARGE COLLECTED.—All
22 cost recovery surcharges collected by a State shall be
23 used to fund those solid waste management pro-
24 grams administered by the State or its political sub-

1 divisions that incur costs for which the surcharge is
2 collected.

3 “(5) CONDITIONS.—(A) Subject to subpara-
4 graphs (B) and (C), a State may impose and collect
5 a cost recovery surcharge on the combustion or dis-
6 posal within the State of out-of-State municipal solid
7 waste if—

8 “(i) the State demonstrates a cost to the
9 State arising from the combustion or disposal
10 within the State of a volume of municipal solid
11 waste from a source outside the State;

12 “(ii) the surcharge is based on those costs
13 to the State demonstrated under subparagraph
14 (A) that, if not paid for through the surcharge,
15 would otherwise have to be paid or subsidized
16 by the State; and

17 “(iii) the surcharge is compensatory and is
18 not discriminatory.

19 “(B) In no event shall a cost recovery surcharge
20 be imposed by a State to the extent that the cost for
21 which recovery is sought is otherwise recovered by
22 any other fee or tax assessed against the generation,
23 transportation, treatment, combustion, or disposal of
24 solid waste.

1 “(C) The grant of a subsidy by a State with re-
2 spect to entities disposing of waste generated within
3 the State does not constitute discrimination for pur-
4 poses of subparagraph (A)(iii).

5 “(6) BURDEN OF PROOF.—In any proceeding in
6 which a State invokes this subsection to justify a
7 cost recovery surcharge on the combustion or dis-
8 posal within the State of out-of-State municipal solid
9 waste, the State shall bear the burden of establish-
10 ing that the cost recovery surcharge satisfies the
11 conditions set forth in paragraph (5).”.

12 (b) TABLE OF CONTENTS AMENDMENT.—The table
13 of contents of the Solid Waste Disposal Act (42 U.S.C.
14 prec. 6901) is amended by adding after the item relating
15 to section 4010 the following new item:

“Sec. 4011. Interstate transportation and disposal of municipal solid waste.”.

Passed the House of Representatives September 28,
1994.

Attest:

Clerk.

103RD CONGRESS
2^D SESSION

H. R. 4779

AN ACT

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.