

103^D CONGRESS
2^D SESSION

H. R. 4779

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.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 1994

Mr. BOUCHER (for himself, Mr. UPTON, and Mr. BONIOR) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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 “Local Government
5 Interstate Waste Control Act”.

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

3 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
4 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
5 at the end the following new section:

6 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**
7 **OF MUNICIPAL SOLID WASTE.**

8 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE
9 WASTE.—(1) Subject to subsection (f), the owner or oper-
10 ator of a landfill, incinerator, or other waste disposal facil-
11 ity in a State may not receive for disposal or incineration
12 any municipal solid waste generated outside the State un-
13 less the owner or operator obtains authorization to receive
14 such waste from the affected local government. Any such
15 authorization shall be granted by formal action at a meet-
16 ing and shall be recorded in writing in the official record
17 of the meeting. The local government shall notify the Gov-
18 ernor, adjoining local governments, and any adjoining In-
19 dian tribes of any authorization granted under this sub-
20 section. Subject to subsection (c), only 1 authorization per
21 facility is required under this subsection.

22 “(2) Prior to formal action with respect to authoriza-
23 tion to receive municipal solid waste generated outside the
24 State, the affected local government shall require and
25 make readily available to the Governor, adjoining local
26 governments, any adjoining Indian tribes, and other inter-

1 ested persons for inspection and copying the following in-
2 formation from the owner or operator of the facility seek-
3 ing such authorization:

4 “(A) A brief description of the planned facility,
5 including facility size, ultimate waste capacity, and
6 anticipated monthly and yearly waste volumes to be
7 handled.

8 “(B) A map of the facility site indicating loca-
9 tion in relation to the local road system and topog-
10 raphy and hydrological features. This map shall in-
11 dicate any buffer zones to be acquired by the owner
12 or operator as well as all facility units.

13 “(C) A description of the current environmental
14 characteristics of the site, including information re-
15 garding ground water resources, and discussion of
16 alterations that may be necessitated by or occur as
17 a result of the facility.

18 “(D) A description of appropriate environ-
19 mental controls to be utilized on the site, including
20 runon/runoff management, air pollution control de-
21 vices, source separation procedures, methane mon-
22 itoring and control, landfill covers, liners or leachate
23 collection systems, and monitoring programs. This
24 description also shall include a discussion of any
25 waste residuals generated by the facility, including

1 leachate or ash, and the planned management of
2 such residuals.

3 “(E) A description of site access controls to be
4 employed, roadway improvements to be made by the
5 owner or operator, and an estimate of the timing
6 and extent of increased local truck traffic.

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

9 “(G) Estimates of the personnel requirements
10 of the facility, including information regarding the
11 probable skill and education levels required for jobs
12 at the facility. This information should distinguish
13 between employment statistics for pre- and post-
14 operational levels.

15 “(H) Such information as is required by State
16 law to be provided with respect to any violations of
17 environmental laws or regulations by the owner, the
18 operator, and their subsidiaries, the disposition of
19 enforcement proceedings taken with respect to such
20 violations, and corrective action and rehabilitation
21 measures taken as a result of such proceedings.

22 “(I) Such information as is required by State
23 law to be provided with respect to gifts and con-
24 tributions by the owner and operator.

1 “(J) Such information as is required by State
2 law to be provided by the owner or operator with re-
3 spect to compliance by the owner or operator with
4 the State solid waste management plan in effect pur-
5 suant to section 4007.

6 “(3) Prior to formal action with respect to authoriza-
7 tion to receive municipal solid waste generated outside the
8 State, the affected local government shall notify the Gov-
9 ernor, adjoining local governments, and any adjoining In-
10 dian tribes, and publish notice of the action in a news-
11 paper of general circulation at least 30 days before the
12 hearing and again at least 15 days before the hearing, and
13 provide an opportunity for public comment, including at
14 least 1 public hearing, in accordance with State law.

15 “(b) LIMITATIONS ON APPLICABILITY.—

16 “(1) LANDFILLS IN OPERATION.—Subsection
17 (a) does not apply to an owner or operator of a land-
18 fill that—

19 “(A) on the date of the enactment of this
20 section, was in compliance with all applicable
21 State laws and regulations relating to design
22 and location standards, leachate collection,
23 ground water monitoring, and financial assur-
24 ance for closure and post-closure care and cor-
25 rective action; and

1 “(B) during calendar year 1993, accepted,
2 in accordance with State law as in effect during
3 such calendar year, documented shipments of
4 municipal solid waste generated outside the
5 State, or, before the date of the enactment of
6 this section, entered into a host agreement or
7 otherwise obtained authorization to accept such
8 waste from the affected local government.

9 “(2) LANDFILLS UNDER CONSTRUCTION OR IN
10 PLANNING PROCESS.—(A) Subject to subparagraph
11 (B), subsection (a) does not apply to a person who—

12 “(i) is planning to own or operate a land-
13 fill; and

14 “(ii) before the date of the enactment of
15 this section, entered into a host agreement or
16 otherwise obtained authorization from the af-
17 fected local government to accept at such land-
18 fill municipal solid waste generated outside the
19 county or the State in which the landfill is
20 located.

21 “(B) The limitation on applicability contained
22 in subparagraph (A) shall terminate if the landfill,
23 before or after construction, fails to meet all State
24 laws and regulations relating to design and location
25 standards, leachate collection, ground water monitor-

1 ing, or financial assurance for closure and post clo-
2 sure care and corrective action.

3 “(3) INCINERATORS AND OTHER FACILITIES.—
4 Subsection (a) does not apply to either of the follow-
5 ing:

6 “(A) An owner or operator of an inciner-
7 ator or other waste disposal facility (other than
8 a landfill) that, during calendar year 1993, ac-
9 cepted documented shipments of municipal solid
10 waste generated outside the State or, before the
11 date of the enactment of this section, entered
12 into a host agreement or otherwise obtained au-
13 thorization to accept such waste from the af-
14 fected local government.

15 “(B) A person who is planning to own or
16 operate an incinerator or other waste disposal
17 facility (other than a landfill) and who, before
18 the date of the enactment of this section, en-
19 tered into a host agreement or otherwise ob-
20 tained authorization from the affected local gov-
21 ernment to accept municipal solid waste gen-
22 erated outside the State at such incinerator or
23 facility.

24 “(c) TREATMENT OF EXPANSIONS OF FACILITIES.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the expansion of a landfill, incinerator, or
3 other waste disposal facility shall be considered, for
4 purposes of subsection (a), to be a separate facility
5 requiring authorization in order to accept waste gen-
6 erated outside the State.

7 “(2) EXCEPTION.—A landfill, incinerator, or
8 other waste disposal facility may be expanded for
9 purposes of receiving waste generated outside the
10 State without an authorization under subsection (a)
11 to accept such waste at the expansion only if—

12 “(A) with respect to a facility for which
13 the owner or operator has obtained authoriza-
14 tion as described in subsection (a) or in para-
15 graph (1), (2), or (3) of subsection (b), at the
16 time the owner or operator obtained such au-
17 thorization—

18 “(i) the owner or operator owned or
19 possessed an option to purchase the land
20 on which the expansion of the facility is
21 proposed to occur; and

22 “(ii) the area of expansion of the fa-
23 cility was indicated in documents filed with
24 the affected local government before ob-
25 taining such authorization; or

1 “(B) with respect to a facility described in
2 paragraph (1) or (3) of subsection (b) for which
3 the owner or operator is not required to obtain
4 authorization, the owner or operator, during
5 calendar year 1993, owned or possessed an op-
6 tion to purchase the land on which the expan-
7 sion of the facility is proposed to occur.

8 “(d) RESTRICTION ON LOCAL GOVERNMENT CON-
9 TROL BY GOVERNOR.—In any case in which an affected
10 local government is considering granting an authorization
11 to receive municipal solid waste generated outside the
12 State, and the disposal or incineration of such waste pre-
13 cludes the use of solid waste management capacity that
14 is identified under the State plan to be used for disposal
15 or incineration of municipal solid waste generated within
16 the region (identified under section 4006(a)) in which the
17 local government is located, the Governor may prohibit the
18 affected local government from granting the authorization.

19 “(e) AUTHORITY OF GOVERNOR TO RESTRICT OUT-
20 OF-STATE MUNICIPAL SOLID WASTE.—

21 “(1)(A) Except as provided in paragraph (5), if
22 requested in writing by both an affected local gov-
23 ernment, and an affected local solid waste planning
24 unit (if such a local solid waste planning unit exists
25 under State law), a Governor may, with respect to

1 landfills to which subsection (a) does not apply (as
2 set forth in paragraphs (1) and (2) of subsection
3 (b)), limit the amount of out-of-State municipal solid
4 waste received for disposal at each such landfill in
5 the State to an amount equal to the amount of out-
6 of-State municipal solid waste received for disposal
7 at the landfill during calendar year 1993.

8 “(B) Prior to submitting a request under this
9 section to limit the disposal of out-of-State munici-
10 pal solid waste, the affected local government and
11 the affected local solid waste planning unit, if any,
12 shall—

13 “(i) provide notice and opportunity for
14 public comment concerning any such proposed
15 request; and

16 “(ii) following notice and comment, take
17 formal action upon any such proposed request
18 at a public meeting.

19 “(3) In responding to requests by affected local
20 governments under paragraph (1)(A), the Governor
21 shall respond in a consistent manner that does not
22 discriminate against any particular landfill within
23 the State and does not discriminate against any
24 shipments of out-of-State municipal solid waste on
25 the basis of State of origin.

1 “(4)(A) Any Governor who intends to exercise
2 the authority provided in this subsection shall, with-
3 in 60 days after the date of enactment of this sec-
4 tion, submit to the Administrator information docu-
5 menting the amount of out-of-State municipal solid
6 waste received for disposal in the Governor’s State
7 during calendar year 1993.

8 “(B) Upon receipt of such information, the Ad-
9 ministrator shall notify the Governor of each State
10 and the public and shall provide a comment period
11 of not less than 30 days.

12 “(C) Not later than 120 days after the date of
13 enactment of this section, the Administrator shall
14 publish a list of the amount of out-of-State municip-
15 al solid waste that was received at each landfill to
16 which subsection (a) does not apply (as set forth in
17 paragraphs (1) and (2) of subsection (b)) for dis-
18 posal in the State during calendar year 1993.

19 “(5) A Governor may not exercise the authority
20 granted under this subsection if such action would
21 be inconsistent with State law or would result in the
22 violation of or failure to perform any provision of—

23 “(i) a written, legally binding contract, in-
24 cluding a host agreement, that was lawfully en-
25 tered into by the owner or operator of a landfill

1 and the affected local government and which
2 authorizes the landfill to receive municipal solid
3 waste generated outside the jurisdiction of the
4 affected local government; or

5 “(ii) a written, legally binding contract for
6 disposal at a landfill of municipal solid waste
7 generated outside the State in which the landfill
8 is located that was in effect on May 31, 1992.

9 “(f) CONTINUED APPLICABILITY OF SECTION CONDI-
10 TIONED ON CERTAIN LANDFILL REQUIREMENTS.—Sub-
11 sections (a) through (e) of this section shall not apply
12 after January 1, 1997, in a State unless each operating
13 municipal solid waste landfill in the State—

14 “(1) meets the design and location standards
15 that are applicable to landfills constructed on and
16 after October 1993; or

17 “(2) is on an enforceable schedule—

18 “(A) to stop receiving waste by January 1,
19 2000; and

20 “(B) to implement a closure plan.

21 “(g) DEFINITIONS.—As used in this section:

22 “(1) The term ‘affected local government’, with
23 respect to a landfill, incinerator, or other waste dis-
24 posal facility, means the elected officials of the city,
25 town, borough, county, or parish in which the facil-

1 ity is located. Within 90 days after enactment of this
2 section, the Governor of each State shall designate
3 and publish notice of which entity listed in the pre-
4 ceding sentence shall serve as the affected local gov-
5 ernment for purposes of actions taken under this
6 section after the date of publication of such notice.
7 No such designation shall affect host agreements
8 concluded before the date of publication of such no-
9 tice. If the Governor fails to make such designation,
10 the affected local government shall be the city, town,
11 borough, county, parish, or other public body created
12 by or pursuant to State law with primary jurisdic-
13 tion over the use of the land on which the facility
14 is located or proposed to be located.

15 “(2) The term ‘affected local solid waste plan-
16 ning unit’ means a political subdivision of a State
17 with authority relating to solid waste management
18 planning in accordance with state law.

19 “(3) The term ‘out-of-State municipal solid
20 waste’, with respect to a State, means municipal
21 solid waste generated outside of the State.

22 “(4) The term ‘municipal solid waste’ means
23 solid waste that is refuse (and refuse-derived fuel)
24 generated by the general public and from residential,
25 commercial, institutional, and industrial sources con-

1 sisting of paper, wood, yard wastes, food wastes,
2 plastics, leather, rubber, and other combustible ma-
3 terials and noncombustible materials such as metal,
4 glass, and rock. The term does not include—

5 “(A) hazardous waste or waste containing
6 polychlorinated biphenyls;

7 “(B) industrial waste;

8 “(C) medical waste;

9 “(D) recyclable materials that have been
10 separated from waste otherwise destined for
11 disposal (either at the source of the waste or at
12 processing facilities) or that have been managed
13 separately from waste destined for disposal; and

14 “(E) materials and products returned from
15 a dispenser or distributor to the manufacturer
16 or its agent for credit, evaluation, and possible
17 reuse.

18 “(5) The term ‘host agreement’ means a writ-
19 ten, legally binding agreement, lawfully entered into
20 between an owner or operator of a landfill or incin-
21 erator and an affected local government that author-
22 izes the landfill or incinerator to receive municipal
23 solid waste generated outside the jurisdiction of the
24 affected local government.”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table
2 of contents of the Solid Waste Disposal Act is amended
3 by adding at the end of the items relating to subtitle D
4 the following new item:

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

5 **SEC. 3. RECYCLING OF NEWSPRINT.**

6 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
7 posal Act is amended by adding after section 4011 the
8 following new section:

9 **“SEC. 4012. RECYCLING OF NEWSPRINT.**

10 “(a) ANNUAL AGGREGATE USE.—(1) Effective Janu-
11 ary 1, 1996, at least 35 percent of the total amount of
12 newsprint used in publishing a covered newspaper during
13 a calendar year shall consist of recycled content.

14 “(2) Effective January 1, 2004, at least 50 percent
15 of the total amount of newsprint used in publishing a cov-
16 ered newspaper during a calendar year shall consist of re-
17 cycled content.

18 “(b) REPORTING REQUIREMENT.—Not later than
19 March 1 of each year, beginning with March 1, 1997, the
20 owner of a covered newspaper shall submit to the Adminis-
21 trator a report on the manner in which the owner complied
22 with the requirements of this section during the preceding
23 calendar year. The report shall include, at a minimum—

1 “(1) the total amount of newsprint used in pro-
2 ducing the newspaper during such calendar year;
3 and

4 “(2) the average amount of recycled content in
5 such newsprint during such calendar year, expressed
6 as a percentage of the total amount of newsprint re-
7 ported under paragraph (1).

8 “(c) ENFORCEMENT.—If a covered newspaper does
9 not comply with an applicable recycled content require-
10 ment under subsection (a) with respect to a calendar year,
11 as determined by the Administrator, both of the following
12 provisions apply:

13 “(1) PENALTY.—The owner of the covered
14 newspaper shall pay a penalty to the Administrator
15 in an amount equal to the amount determined by
16 multiplying the number of tons of newsprint in non-
17 compliance during such calendar year by \$25. For
18 purposes of this paragraph, the number of tons of
19 newsprint in noncompliance is the amount equal to
20 the product of—

21 “(A) the total number of tons of newsprint
22 used in producing such newspaper during such
23 calendar year, and

1 “(B) the percentage equal to 100 percent
2 reduced by the percentage determined by divid-
3 ing—

4 “(i) the average amount of recycled
5 content in the newsprint of such newspaper
6 during such calendar year (expressed as a
7 percentage of the total amount of news-
8 print used in producing such newspaper
9 during such calendar year), by

10 “(ii) the percentage of recycled con-
11 tent required under subsection (a) for such
12 calendar year.

13 “(2) CONTENT DISCLOSURE.—(A) Effective on
14 March 1 of the year following such calendar year,
15 the owner of the covered newspaper shall ensure that
16 the following language appears each day prominently
17 at the top of the front page of the newspaper: ‘The
18 newsprint on which the _____ is
19 printed does not meet the Federal Government’s re-
20 quired percentage of recycled content.’, with the
21 blank being filled in with the name of the news-
22 paper.

23 “(B) The requirement of subparagraph (A)
24 shall continue in effect until the owner of the cov-
25 ered newspaper demonstrates to the Administrator

1 that the newspaper complies with the applicable re-
2 cycled content requirement under subsection (a).

3 “(d) NEWSPRINT RECYCLING FUND.—

4 “(1) ESTABLISHMENT OF FUND.—The proceeds
5 of any penalties collected by the Administrator
6 under subsection (c)(1) shall be deposited in a spe-
7 cial fund in the United States Treasury, to be
8 known as the ‘Newsprint Recycling Fund’. Amounts
9 in such fund shall thereafter be available for appro-
10 priation and shall remain available until expended.

11 “(2) USE OF FUND.— Subject to appropriation,
12 amounts in such fund shall be available for distribu-
13 tion by the Administrator to local governments in
14 the principal area served by any covered newspaper
15 paying a penalty under subsection (c)(1) for the pur-
16 pose of establishing and implementing necessary pro-
17 grams to collect and recycle old newsprint.

18 “(e) SMALL NEWSPAPERS.—Not later than Decem-
19 ber 31, 1996, the Administrator shall submit a report to
20 Congress describing the impact of paragraph (1) of sub-
21 section (a) on the price of recycled newsprint and other
22 newsprint available to newspapers whose average daily cir-
23 culation is less than 200,000. If the Administrator finds
24 that the requirements of such paragraph (1) have resulted
25 in a significant increase in the price of such newsprint for

1 such newspapers, the Administrator, by rule, after notice
2 and opportunity for comment, may reduce the 50 percent
3 requirement set forth in paragraph (2) of subsection (a)
4 to prevent a significant increase in the price of such news-
5 print for such newspapers.

6 “(f) DEFINITIONS.—For purposes of this section, the
7 following definitions apply:

8 “(1) The term ‘covered newspaper’ means a
9 newspaper with an average daily circulation of
10 200,000 or more.

11 “(2) The term ‘recycled content’, when used in
12 connection with newsprint, means the portion of the
13 dry weight of the newsprint that is attributable to
14 previously used paper fibers.”.

15 (b) TABLE OF CONTENTS.—The table of contents for
16 subtitle D of the Solid Waste Disposal Act (contained in
17 section 1001 of that Act) is amended by adding after the
18 item relating to section 4011 the following new item:

“Sec. 4012. Recycling of newsprint.”.

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