

104TH CONGRESS
1ST SESSION

S. 589

To amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, MARCH 16), 1995

Mr. COATS (for himself, Mr. DOLE, Mr. SPECTER, Mr. LUGAR, and Mrs. KASSEBAUM) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, 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 “Interstate Transpor-
5 tation of Municipal Waste Act of 1995”.

1 **SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL**
2 **WASTE.**

3 Subtitle D of the Solid Waste Disposal Act (42
4 U.S.C. 6941 et seq.) is amended by adding at the end
5 the following new section:

6 “INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

7 “SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-
8 STATE MUNICIPAL WASTE.—(1)(A) Except as provided in
9 subsection (b), if requested in writing by an affected local
10 government, a Governor may prohibit the disposal of out-
11 of-State municipal waste in any landfill or incinerator that
12 is subject to the jurisdiction of the Governor or the
13 affected local government.

14 “(B) Prior to submitting a request under this section,
15 the affected local government shall—

16 “(i) provide notice and opportunity for public
17 comment concerning any proposed request; and

18 “(ii) following notice and comment, take formal
19 action on any proposed request at a public meeting.

20 “(2) Beginning with calendar year 1995, a Governor
21 of a State may, with respect to landfills covered by the
22 exceptions provided in subsection (b)—

23 “(A) notwithstanding the absence of a request
24 in writing by the affected local government—

25 “(i) limit the quantity of out-of-State mu-
26 nicipal waste received for disposal at each land-

1 fill in the State to an annual quantity equal to
2 the quantity of out-of-State municipal waste re-
3 ceived for disposal at the landfill during the cal-
4 endar year 1993 or 1994, whichever is less; and

5 “(ii) limit the disposal of out-of-State mu-
6 nicipal waste at landfills that received, during
7 calendar year 1993, documented shipments of
8 more than 50,000 tons of out-of-State municipi-
9 pal waste representing more than 30 percent of
10 all municipal waste received at the landfill dur-
11 ing the calendar year, by prohibiting at each
12 such landfill the disposal, in any year, of a
13 quantity of out-of-State municipal waste that is
14 greater than 30 percent of all municipal waste
15 received at the landfill during calendar year
16 1993; and

17 “(B) if requested in writing by the affected
18 local government, prohibit the disposal of out-of-
19 State municipal waste in landfill cells that do not
20 meet the design and location standards and leachate
21 collection and ground water monitoring requirements
22 of State law and regulations in effect on January 1,
23 1993, for new landfills.

24 “(3)(A) In addition to the authorities provided in
25 paragraph (1)(A), beginning with calendar year 1997, a

1 Governor of any State, if requested in writing by the af-
 2 fected local government, may further limit the disposal of
 3 out-of-State municipal waste as provided in paragraph
 4 (2)(A)(ii) by reducing the 30 percent annual quantity limi-
 5 tation to 20 percent in each of calendar years 1998 and
 6 1999, and to 10 percent in each succeeding calendar year.

7 “(B)(i) A State may ban imports from large export-
 8 ing States if the volumes of municipal solid waste exported
 9 by those States did not meet reduction targets.

10 “(ii) A ban under clause (i) may prohibit imports
 11 from States that export more than—

12 “(I) 3,500,000 tons in calendar year 1996;

13 “(II) 3,000,000 tons in calendar year 1997;

14 “(III) 3,000,000 tons in calendar year 1998;

15 “(IV) 2,500,000 tons in calendar year 1999;

16 “(V) 2,500,000 tons in calendar year 2000;

17 “(VI) 1,500,000 tons in calendar year 2001;

18 “(VII) 1,500,000 tons in calendar year 2002;

19 or

20 “(VIII) 1,000,000 tons in any calendar year
 21 after 2002,

22 excluding any volume legitimately covered by a host com-
 23 munity agreement.

24 “(4)(A) Any limitation imposed by the Governor
 25 under paragraph (2)(A)—

1 “(i) shall be applicable throughout the State;

2 “(ii) shall not discriminate against any particu-
3 lar landfill within the State; and

4 “(iii) shall not discriminate against any ship-
5 ments of out-of-State municipal waste on the basis
6 of State of origin.

7 “(B) In responding to requests by affected local gov-
8 ernments under paragraphs (1)(A) and (2)(B), the Gov-
9 ernor shall respond in a manner that does not discriminate
10 against any particular landfill within the State and does
11 not discriminate against any shipments of out-of-State
12 municipal waste on the basis of State of origin.

13 “(5)(A) Any Governor who intends to exercise the au-
14 thority provided in this paragraph shall, within 120 days
15 after the date of enactment of this section, submit to the
16 Administrator information documenting the quantity of
17 out-of-State municipal waste received for disposal in the
18 State of the Governor during calendar years 1993 and
19 1994.

20 “(B) On receipt of the information submitted pursu-
21 ant to subparagraph (A), the Administrator shall notify
22 the Governor of each State and the public and shall pro-
23 vide a comment period of not less than 30 days.

24 “(C) Not later than 60 days after receipt of informa-
25 tion from a Governor under subparagraph (A), the Admin-

1 istrator shall determine the quantity of out-of-State mu-
2 nicipal waste that was received at each landfill covered by
3 the exceptions provided in subsection (b) for disposal in
4 the State of the Governor during calendar years 1993 and
5 1994, and provide notice of the determination to the Gov-
6 ernor of each State. A determination by the Administrator
7 under this subparagraph shall be final and not subject to
8 judicial review.

9 “(D) Not later than 180 days after the date of enact-
10 ment of this section, the Administrator shall publish a list
11 of the quantity of out-of-State municipal waste that was
12 received during calendar years 1993 and 1994 at each
13 landfill covered by the exceptions provided in subsection
14 (b) for disposal in each State in which the Governor in-
15 tends to exercise the authority provided in this paragraph,
16 as determined in accordance with subparagraph (C).

17 “(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT
18 OUT-OF-STATE MUNICIPAL WASTE.—The authority to
19 prohibit the disposal of out-of-State municipal waste pro-
20 vided under subsection (a)(1) shall not apply to—

21 “(1) landfills in operation on the date of enact-
22 ment of this section that—

23 “(A) received during calendar year 1993
24 documented shipments of out-of-State municipi-
25 pal waste; and

1 “(B) are in compliance with all applicable
2 State laws (including any State rule or regula-
3 tion) relating to design and location standards,
4 leachate collection, ground water monitoring,
5 and financial assurance for closure and post-
6 closure and corrective action;

7 “(2) proposed landfills that, prior to January 1,
8 1993, received—

9 “(A) an explicit authorization as part of a
10 host community agreement from the affected
11 local government to receive municipal waste
12 generated out-of-State; and

13 “(B) a notice of decision from the State to
14 grant a construction permit; or

15 “(3) incinerators in operation on the date of en-
16 actment of this section that—

17 “(A) received, during calendar year 1993,
18 documented shipments of out-of-State munici-
19 pal waste;

20 “(B) are in compliance with the applicable
21 requirements of section 129 of the Clean Air
22 Act (42 U.S.C. 7429); and

23 “(C) are in compliance with all applicable
24 State laws (including any State rule or regula-
25 tion) relating to facility design and operations.

1 “(c) DENIAL OF PERMITS ON GROUND OF LACK OF
2 NEED.—

3 “(1) DENIAL.—A State may deny a permit for
4 the construction or operation of a new landfill or in-
5 cinerator or a major modification of an existing
6 landfill or incinerator if—

7 “(A) the State has approved a State or
8 local comprehensive solid waste management
9 plan developed under Federal or State law; and

10 “(B) the denial is based on the State’s de-
11 termination, pursuant to a State law authoriz-
12 ing such denial, that there is not a local or re-
13 gional need of the landfill or incinerator in the
14 State.

15 “(2) UNDUE BURDEN.—A denial of a permit
16 under paragraph (1) shall not be considered to im-
17 pose an undue burden on interstate commerce or to
18 otherwise impair, restrain, or discriminate against
19 interstate commerce.

20 “(d) DEFINITIONS.—As used in this section:

21 “(1) The term ‘affected local government’
22 means—

23 “(A) the public body authorized by State
24 law to plan for the management of municipal
25 solid waste, a majority of the members of which

1 are elected officials, for the area in which the
2 landfill or incinerator is located or proposed to
3 be located; or

4 “(B) if there is not such body created by
5 State law, the elected officials of the city, town,
6 township, borough, county, or parish selected by
7 the Governor and exercising primary respon-
8 sibility over municipal solid waste management
9 or the use of land in the jurisdiction in which
10 the facility is located or proposed to be located.

11 “(2) The term ‘affected local solid waste plan-
12 ning unit’ means a political subdivision of a State
13 with authority relating to solid waste management
14 planning in accordance with State law.

15 “(3) With respect to a State, the term ‘out-of-
16 State municipal waste’ means municipal waste gen-
17 erated outside the State. To the extent that it is
18 consistent with the United States-Canada Free
19 Trade Agreement and the General Agreement on
20 Tariffs and Trade, the term shall include municipal
21 waste generated outside the United States.

22 “(4) The term ‘host community agreement’
23 means a written, legally binding document or docu-
24 ments executed by duly authorized officials of the af-
25 fected local government that specifically authorizes a

1 landfill or incinerator to receive municipal solid
2 waste generated out-of-State.

3 “(5) The term ‘municipal waste’ means refuse
4 (and refuse-derived fuel) generated by the general
5 public or from a residential, commercial, institu-
6 tional, or industrial source (or any combination
7 thereof), consisting of paper, wood, yard wastes,
8 plastics, leather, rubber, or other combustible or
9 noncombustible materials such as metal or glass (or
10 any combination thereof). The term ‘municipal
11 waste’ does not include—

12 “(A) any solid waste identified or listed as
13 a hazardous waste under section 3001;

14 “(B) any solid waste, including contami-
15 nated soil and debris, resulting from a response
16 action taken under section 104 or 106 of the
17 Comprehensive Environmental Response, Com-
18 pensation, and Liability Act (42 U.S.C. 9604,
19 9606) or a corrective action taken under this
20 Act;

21 “(C) any metal, pipe, glass, plastic, paper,
22 textile, or other material that has been sepa-
23 rated or diverted from municipal waste and has
24 been transported into the State for the purpose
25 of recycling or reclamation;

1 “(D) any solid waste that is—

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

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

10 “(E) any solid waste generated incident to
11 the provision of service in interstate, intrastate,
12 foreign, or overseas air transportation;

13 “(F) any industrial waste that is not iden-
14 tical to municipal waste with respect to the
15 physical and chemical state of the industrial
16 waste, and composition, including construction
17 and demolition debris;

18 “(G) any medical waste that is segregated
19 from or not mixed with municipal waste; or

20 “(H) any material or product returned
21 from a dispenser or distributor to the manufac-
22 turer for credit, evaluation, or possible reuse.”.

1 **SEC. 3. TABLE OF CONTENTS AMENDMENT.**

2 The table of contents of the Solid Waste Disposal Act
3 is amended by adding at the end of the items relating to
4 subtitle D the following new item:

“Sec. 4011. Interstate transportation of municipal waste.”.

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