

103^D CONGRESS
1ST SESSION

H. R. 1076

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 HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mr. WYDEN (for himself, Mr. BEREUTER, Mr. HAMILTON, Mr. KOPETSKI, Mr. WISE, Mr. KANJORSKI, Mr. MURPHY, Mr. McCLOSKEY, Mr. FINGERHUT, Mrs. LLOYD, Ms. DANNER, Mr. JOHNSON of South Dakota, and Mr. BUYER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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 1993”.

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 both an affected
10 local government and an affected local solid waste plan-
11 ning unit, if the local solid waste planning unit exists
12 under State law, a Governor may prohibit the disposal of
13 out-of-State municipal waste in any landfill or incinerator
14 that is subject to the jurisdiction of the Governor or the
15 affected local government.

16 “(B) Prior to submitting a request under this section,
17 the affected local government and solid waste planning
18 unit shall—

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

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

23 “(2) Beginning with calendar year 1993, a Governor
24 of a State may, with respect to landfills covered by the
25 exceptions provided in subsection (b)—

1 “(A) notwithstanding the absence of a request
2 in writing by the affected local government and the
3 affected local solid waste planning unit, if any,—

4 “(i) limit the quantity of out-of-State mu-
5 nicipal waste received for disposal at each land-
6 fill in the State to an annual quantity equal to
7 the quantity of out-of-State municipal waste re-
8 ceived for disposal at the landfill during the cal-
9 endar year 1991 or 1992, whichever is less; and

10 “(ii) limit the disposal of out-of-State mu-
11 nicipal waste at landfills that received, during
12 calendar year 1991, documented shipments of
13 more than 50,000 tons of out-of-State municipi-
14 pal waste representing more than 30 percent of
15 all municipal waste received at the landfill dur-
16 ing the calendar year, by prohibiting at each
17 such landfill the disposal, in any year, of a
18 quantity of out-of-State municipal waste that is
19 greater than 30 percent of all municipal waste
20 received at the landfill during calendar year
21 1991; and

22 “(B) if requested in writing by the affected
23 local government and the affected local solid waste
24 planning unit, if any, prohibit the disposal of out-of-
25 State municipal waste in landfill cells that do not

1 meet the design and location standards and leachate
2 collection and ground water monitoring requirements
3 of State law and regulations in effect on January 1,
4 1993, for new landfills.

5 “(3) In addition to the authorities provided in para-
6 graph (1)(A), beginning with calendar year 1997, a Gov-
7 ernor of any State, if requested in writing by the affected
8 local government and the affected local solid waste plan-
9 ning unit, if any, may further limit the disposal of out-
10 of-State municipal waste as provided in paragraph
11 (2)(A)(ii) by reducing the 30 percent annual quantity limi-
12 tation to 20 percent in each of calendar years 1998 and
13 1999, and to 10 percent in each succeeding calendar year.

14 “(4)(A) Any limitation imposed by the Governor
15 under paragraph (2)(A)—

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

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

19 “(iii) shall not discriminate against any ship-
20 ments of out-of-State municipal waste on the basis
21 of State of origin.

22 “(B) In responding to requests by affected local gov-
23 ernments under paragraphs (1)(A) and (2)(B), the Gov-
24 ernor shall respond in a manner that does not discriminate
25 against any particular landfill within the State and does

1 not discriminate against any shipments of out-of-State
2 municipal waste on the basis of State of origin.

3 “(5)(A) Any Governor who intends to exercise the au-
4 thority provided in this paragraph shall, within 120 days
5 after the date of enactment of this section, submit to the
6 Administrator information documenting the quantity of
7 out-of-State municipal waste received for disposal in the
8 State of the Governor during calendar years 1991 and
9 1992.

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

14 “(C) Not later than 60 days after receipt of informa-
15 tion from a Governor under subparagraph (A), the Admin-
16 istrator shall determine the quantity of out-of-State mu-
17 nicipal waste that was received at each landfill covered by
18 the exceptions provided in subsection (b) for disposal in
19 the State of the Governor during calendar years 1991 and
20 1992, and provide notice of the determination to the Gov-
21 ernor of each State. A determination by the Administrator
22 under this subparagraph shall be final and not subject to
23 judicial review.

24 “(D) Not later than 180 days after the date of enact-
25 ment of this section, the Administrator shall publish a list

1 of the quantity of out-of-State municipal waste that was
2 received during calendar years 1991 and 1992 at each
3 landfill covered by the exceptions provided in subsection
4 (b) for disposal in each State in which the Governor in-
5 tends to exercise the authority provided in this paragraph,
6 as determined in accordance with subparagraph (C).

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

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

13 “(A) received during calendar year 1991
14 documented shipments of out-of-State municipi-
15 pal waste; and

16 “(B) are in compliance with all applicable
17 State laws (including any State rule or regula-
18 tion) relating to design and location standards,
19 leachate collection, ground water monitoring,
20 and financial assurance for closure and post-
21 closure and corrective action;

22 “(2) proposed landfills that, prior to January 1,
23 1993, received—

24 “(A) an approval from the affected local
25 government to receive municipal waste gen-

1 erated outside the county or the State in which
2 the landfill is located; and

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

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

7 “(A) received, during calendar year 1991,
8 documented shipments of out-of-State municipi-
9 pal waste;

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

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

16 “(c) COST RECOVERY SURCHARGE AUTHORITY.—(1)
17 A State may impose and collect a fee (hereinafter in this
18 subsection referred to as a ‘cost recovery surcharge’) on
19 the combustion or disposal in a landfill, incinerator, or
20 other waste disposal facility of out-of-State municipal
21 waste in such State. Such cost recovery surcharge may
22 be different from a fee or charge imposed by the State
23 on solid waste which is generated in such State.

1 “(2) With respect to a cost recovery surcharge im-
2 posed by a State pursuant to the authority provided by
3 paragraph (1) on waste generated outside the State—

4 “(A) during the period beginning on the date of
5 the enactment of this section and ending on Decem-
6 ber 31, 1993, the amount of such surcharge may not
7 exceed \$3 per ton of such waste; and

8 “(B) during each 12-month period thereafter,
9 the amount of such surcharge may not exceed the
10 amount charged during the preceding 12-month pe-
11 riod, increased by the percentage, if any, by which
12 the Consumer Price Index for the calendar year end-
13 ing during such 12-month period exceeds the
14 Consumer Price Index for the calendar year 1990.

15 “(3) For purposes of paragraph (2)(B):

16 “(A) The Consumer Price index for any cal-
17 endar year is the average of the Consumer Price
18 Index for all urban consumers published by the De-
19 partment of Labor, as of the close of the 12-month
20 period ending on August 31 of each calendar year.
21 The revision of the Consumer Price Index which is
22 most consistent with the Consumer Price Index for
23 calendar year 1990 shall be used.

1 “(B) The Administrator shall publish the maxi-
2 mum amount of the cost recovery surcharge for the
3 next 12-month period by March 1 of each year.

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

5 “(1)(A) The term ‘affected local government’,
6 with respect to a landfill or incinerator, means the
7 elected officials of the city, town, borough, county,
8 or parish in which the facility is located.

9 “(B) Within 90 days after the date of the en-
10 actment of this section, the Governor shall designate
11 which entity listed in subparagraph (A) shall serve
12 as the affected local government for actions taken
13 under this section. If the Governor fails to make a
14 designation, the affected local government shall be
15 the city, town, borough, county, parish, or other
16 public body created pursuant to State law with pri-
17 mary jurisdiction over the land or the use of land on
18 which the facility is located.

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

23 “(3) With respect to a State, the term ‘out-of-
24 State municipal waste’ means municipal waste gen-
25 erated outside of the State. To the extent that it is

1 consistent with the United States-Canada Free
2 Trade Agreement and the General Agreement on
3 Tariffs and Trade, the term shall include municipal
4 waste generated outside of the United States.

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

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

16 “(B) any solid waste, including contami-
17 nated soil and debris, resulting from a response
18 action taken under section 104 or 106 of the
19 Comprehensive Environmental Response, Com-
20 pensation, and Liability Act of 1980 (42 U.S.C.
21 9604 or 9606) or a corrective action taken
22 under this Act;

23 “(C) any metal, pipe, glass, plastic, paper,
24 textile, or other material that has been sepa-
25 rated or diverted from municipal waste and has

1 been transported into the State for the purpose
2 of recycling or reclamation;

3 “(D) any solid waste that is—

4 “(i) generated by an industrial facil-
5 ity; and

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

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

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

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

22 “(H) any material or product returned
23 from a dispenser or distributor to the manufac-
24 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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