

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4073

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1994

Mr. GREENWOOD (for himself, Mr. CLINGER, Mr. MURTHA, Mr. MCDADE , Mr. HOLDEN, Mr. WALKER, Mr. GEKAS, Mr. MURPHY, Mr. RIDGE, Mr. KLINK, Mr. SANTORUM, Mr. KANJORSKI, Mr. MCHALE, Mr. SHUSTER, Mr. GOODLING, and Ms. MARGOLIES-MEZVINSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Solid Waste Disposal Act to permit States and counties to limit the disposal of out-of-State 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 “Interstate Municipal  
5       Solid Waste Control Act”.

1 **SEC. 2. INTERSTATE TRANSPORTATION OF**  
2 **NONHAZARDOUS SOLID WASTE.**

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

6 **“SEC. 4011. INTERSTATE TRANSPORTATION OF**  
7 **NONHAZARDOUS SOLID WASTE.**

8 **“(a) AUTHORITY TO LIMIT QUANTITY IN EXISTING**  
9 **FACILITIES.—**

10 **“(1) LIMIT BASED ON PRIOR YEARS.—**The Gov-  
11 ernor of a State may limit the quantity of out-of-  
12 State municipal solid waste received for disposal at  
13 each landfill or incinerator in the State to an annual  
14 quantity equal to the quantity of out-of-State munic-  
15 ipal solid waste received for disposal at the landfill  
16 or incinerator during the calendar year 1990, 1991,  
17 or 1992, whichever is less.

18 **“(2) 30 PERCENT LIMIT.—**The Governor of a  
19 State may limit the quantity of out-of-State munic-  
20 ipal solid waste received for disposal at a landfill or  
21 incinerator in the State to an annual quantity not  
22 greater than 30 percent of all municipal solid waste  
23 received at that landfill or incinerator during cal-  
24 endar year 1990, 1991, or 1992, whichever is less,  
25 if, during calendar year 1990, 1991, or 1992, that  
26 landfill or incinerator received documented ship-

1       ments of more than 50,000 tons of out-of-State mu-  
2       nicipal solid waste representing more than 30 per-  
3       cent of all municipal solid waste received at the  
4       landfill or incinerator during the calendar year con-  
5       cerned.

6           “(3) AUTHORITY TO FURTHER LIMIT.—Begin-  
7       ning with calendar year 1995, the Governor of a  
8       State may limit the disposal of out-of-State municipi-  
9       pal solid waste at landfills or incinerators in the  
10      State by reducing the 30 percent annual quantity  
11      limitation in paragraph (2) to 20 percent in each of  
12      calendar years 1996 and 1997, and to 10 percent in  
13      each succeeding calendar year.

14       “(b) AUTHORITY TO PROHIBIT OUT-OF-STATE MU-  
15      NICIPAL SOLID WASTE DISPOSAL AT CERTAIN LAND-  
16      FILLS AND INCINERATORS.—

17           “(1) NEW LANDFILLS AND INCINERATORS.—  
18       The Governor of a State may prohibit the disposal  
19       of out-of-State municipal solid waste in any new  
20       landfill or new incinerator in the State.

21           “(2) LANDFILLS NOT COMPLYING WITH CER-  
22      TAIN LAWS.—The Governor of a State may prohibit  
23      the disposal of out-of-State municipal solid waste in  
24      any landfill that does not meet all applicable Federal  
25      and State laws (including any Federal or State rule

1 or regulation) relating to design and location stand-  
2 ards, leachate collection, ground water monitoring,  
3 and financial assurance for closure and post-closure  
4 and corrective action.

5 “(3) INCINERATORS NOT COMPLYING WITH  
6 CERTAIN LAWS.—The Governor of a State may pro-  
7 hibit the disposal of out-of-State municipal solid  
8 waste in any incinerator that does not comply with  
9 section 129 of the Clean Air Act (42 U.S.C. 7429)  
10 and meet all applicable Federal and State laws (in-  
11 cluding any Federal or State rule or regulation) re-  
12 lating to facility design, operations, and emissions.

13 “(c) INDUSTRIAL SOLID WASTE DISPOSED OF AT  
14 CERTAIN LANDFILLS OR INCINERATORS.—A Governor  
15 may treat any out-of-State industrial solid waste as out-  
16 of-State municipal solid waste for purposes of this section  
17 if it is disposed of at a landfill or incinerator that receives  
18 municipal solid waste.

19 “(d) AUTHORITY OF COUNTIES.—The government of  
20 any county may exercise within the county the same au-  
21 thority as that provided to the Governor under subsections  
22 (a), (b), and (c) with respect to out-of-State municipal or  
23 industrial solid waste, except that in applying subsection  
24 (a)(2) in the case of a county, the reference to 30 percent  
25 shall be treated as a reference to 20 percent. In any case

1 in which both a county and the State in which such county  
2 is located have acted to establish prohibitions or limita-  
3 tions, or both, under subsection (a), (b), or (c), or any  
4 combination thereof, the most restrictive of such prohibi-  
5 tions or limitations shall govern in that county.

6       “(e) APPLICABILITY AND DISCRIMINATION PROVI-  
7 SIONS.—Any limitation imposed by a Governor under sub-  
8 section (a)(1), (b), or (c) shall be applicable throughout  
9 the State and shall not discriminate against any shipments  
10 of out-of-State solid waste on the basis of State of origin.  
11 Any limitation imposed by a county under subsection (d)  
12 shall be applicable throughout the county and shall not  
13 discriminate against any shipments of out-of-State solid  
14 waste on the basis of State of origin.

15       “(f) DETERMINATION OF QUANTITY.—(1) Any Gov-  
16 ernor who intends to exercise the authority provided in  
17 subsection (a) shall, within 150 days after the effective  
18 date of this section, submit to the Administrator informa-  
19 tion documenting the quantity of out-of-State municipal  
20 solid waste received for disposal at each landfill and incin-  
21 erator in the State during calendar years 1990, 1991 and  
22 1992. Any county which intends to exercise the authority  
23 provided in subsection (d) shall, within 120 days after the  
24 effective date of this section, submit to the Governor infor-  
25 mation documenting the quantity of out-of-State municipi-

1 pal solid waste received for disposal at each landfill and  
2 incinerator in the county during calendar years 1990,  
3 1991, and 1992, and the Governor shall transmit such in-  
4 formation to the Administrator.

5 “(2) On receipt of the information submitted pursu-  
6 ant to paragraph (1), the Administrator shall notify the  
7 Governor of each State and the public and shall provide  
8 a comment period of not less than 30 days.

9 “(3) Not later than 210 days after the effective date  
10 of this section, the Administrator shall publish a list of  
11 the quantity of out-of-State municipal solid waste that was  
12 received during calendar years 1990, 1991 and 1992, at  
13 each landfill and incinerator in each State in which the  
14 Governor intends to exercise the authority provided in sub-  
15 section (a) and at each landfill and incinerator in each  
16 county which intends to exercise the authority provided  
17 in subsection (d).

18 “(g) AUTHORITY TO RESTRICT IN-STATE MUNICI-  
19 PAL SOLID WASTE EXPORTS.—(1) Except as provided in  
20 paragraph (2), a Governor of a State may limit or prohibit  
21 the exportation outside the State of municipal solid waste  
22 generated in the State, in accordance with the comprehen-  
23 sive waste management plan of the affected local solid  
24 waste planning unit, or, if such a plan does not exist, in  
25 accordance with State law.

1       “(2) A Governor may not limit or prohibit the expor-  
2 tation of materials consisting solely of materials that have  
3 been separated from municipal solid waste for recycling.

4       “(h) REPORTING REQUIREMENTS.—The Governor of  
5 each State exercising any authority under subsection (a),  
6 (b) or (c) shall submit a report to the Administrator not  
7 less frequently than annually documenting the quantities  
8 of out-of-State municipal and industrial solid waste dis-  
9 posed of in landfills and incinerators in that State which  
10 accept municipal solid waste. Each county exercising any  
11 authority under subsection (d) shall submit a report to  
12 the State not less frequently than annually documenting  
13 the quantities of out-of-State municipal and industrial  
14 solid waste disposed of in landfills and incinerators in that  
15 county which accept municipal solid waste, and the State  
16 shall submit such report to the Administrator. Each such  
17 report shall specify the percentage of the total amount of  
18 solid waste disposed of in each such landfill and inciner-  
19 ator that is comprised of such out-of-State municipal and  
20 industrial solid waste.

21       “(i) EXEMPTIONS.—The provisions of this section  
22 shall not apply to the following:

23               “(1) MATERIAL TO BE RECYCLED, RECLAIMED,  
24       OR REUSED.—Any metal, pipe, glass, plastic, paper,  
25       textile, or other material that has been separated or

1 diverted from municipal solid waste and has been  
2 transported into the State for the purpose of recy-  
3 cling or reclamation and any material or product re-  
4 turned from a dispenser or distributor to the manu-  
5 facturer for credit, evaluation, or possible reuse.  
6 This paragraph shall not apply to any material dis-  
7 posed of in a landfill or incinerator.

8 “(2) INTERNAL DISPOSAL.—Any solid waste  
9 that is generated by an industrial facility and trans-  
10 ported for the purpose of treatment, storage, or dis-  
11 posal to a facility that is owned or operated by the  
12 generator of the waste, or is located on property  
13 owned by the generator or any affiliated person.

14 “(3) AIR TRANSPORTATION WASTE.—Any solid  
15 waste generated incident to the provision of service  
16 in interstate, intrastate, foreign, or overseas air  
17 transportation.

18 “(j) DEFINITIONS.—For purposes of this section:

19 “(1) NEW LANDFILL.—The term ‘new landfill’  
20 means any landfill or portion thereof other than an  
21 existing landfill.

22 “(2) EXISTING LANDFILL.—The term ‘existing  
23 landfill’ means either of the following:

24 “(A) A landfill or portion thereof author-  
25 ized to receive waste under a permit under

1 State law was issued before the enactment of  
2 this section; and which received shipments of  
3 out-of-State municipal solid waste during cal-  
4 endar year 1990, 1991, or 1992.

5 “(B) A proposed landfill or portion thereof  
6 that, prior to January 1, 1993, received both of  
7 the following:

8 “(i) An approval from either the af-  
9 fected local government or the local solid  
10 waste planning unit to receive municipal  
11 solid waste generated outside the jurisdic-  
12 tion of the affected local government, the  
13 solid waste planning unit, or the State in  
14 which the landfill is located.

15 “(ii) A notice of decision from the  
16 State to grant a construction permit.

17 “(3) NEW INCINERATOR.—The term ‘new incin-  
18 erator’ means any incinerator other than an existing  
19 incinerator.

20 “(4) EXISTING INCINERATOR.—The term ‘exist-  
21 ing incinerator’ means an incinerator in operation on  
22 the date of enactment of this section that received,  
23 during calendar year 1990, 1991, or 1992 docu-  
24 mented shipments of out-of-State municipal solid  
25 waste.

1           “(5) OUT-OF-STATE WASTE.—The term ‘out-of-  
2 State waste’ means, with respect to a State, waste  
3 generated outside of the State. With respect to a  
4 county, such term means waste generated outside of  
5 the State in which such county is located. Such term  
6 includes waste generated outside of the United  
7 States.

8           “(6) MUNICIPAL SOLID WASTE.—The term  
9 ‘municipal solid waste’ means refuse (and refuse-de-  
10 rived fuel) generated by the general public or from  
11 a residential, commercial, institutional, or industrial  
12 source (or any combination thereof), consisting of  
13 paper, wood, yard wastes, plastics, leather, rubber,  
14 or other combustible or noncombustible materials  
15 such as metal or glass (or any combination thereof).  
16 The term does not include any of the following:

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

19                   “(B) Any solid waste, including contami-  
20 nated soil and debris, resulting from a response  
21 action taken under section 104 or 106 of the  
22 Comprehensive Environmental Response, Com-  
23 pensation, and Liability Act (42 U.S.C. 9604 or  
24 9606) or a corrective action taken under this  
25 Act.

1           “(C) Any medical waste that is segregated  
2           from or not mixed with municipal solid waste.

3           “(7) INDUSTRIAL SOLID WASTE.—The term ‘in-  
4           dustrial solid waste’ means solid waste generated  
5           from manufacturing or industrial processing oper-  
6           ations that is not identical to municipal solid waste  
7           with respect to the physical and chemical state of  
8           the waste and the composition of the waste. The  
9           term includes construction and demolition debris.

10          “(8) AFFILIATED PERSON.—The term ‘affili-  
11          ated person’ means, with respect to the generator of  
12          any solid waste, any person which controls, is con-  
13          trolled by, or is under common control with the gen-  
14          erator.”.

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

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

          “Sec. 4011. Interstate transportation of nonhazardous solid waste.”.

19   **SEC. 4. EFFECTIVE DATE.**

20          The amendments made by this Act shall take effect  
21          on the date 6 months after enactment.

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