

103^D CONGRESS
2^D SESSION

S. 1873

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, FEBRUARY 22), 1994

Mr. DORGAN 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 municipal and industrial waste in 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 and Industrial Waste Act of 1994”.

1 **SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL AND**
2 **INDUSTRIAL 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 **“SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL**
7 **AND INDUSTRIAL WASTE.**

8 “(a) **AUTHORITY TO RESTRICT OUT-OF-STATE MU-**
9 **NICIPAL AND INDUSTRIAL WASTE.—**

10 “(1) **IN GENERAL.—**

11 “(A) **PROHIBITION ON DISPOSAL.—**Except
12 as provided in subsection (b), if requested in
13 writing by both an affected local government
14 and (if a local solid waste planning unit exists
15 under State law) an affected local solid waste
16 planning unit, the Governor of a State may pro-
17 hibit the disposal of out-of-State municipal and
18 industrial waste in any landfill or incinerator
19 that is subject to the jurisdiction of the Gov-
20 ernor or the affected local government.

21 “(B) **PROCEDURE.—**Prior to submitting a
22 request under this section, the affected local
23 government and solid waste planning unit
24 shall—

1 “(i) provide notice and opportunity for
2 public comment concerning any proposed
3 request; and

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

7 “(2) EXCEPTIONS.—Beginning with calendar
8 year 1994, in the case of landfills covered by the ex-
9 ceptions provided in subsection (b), the Governor of
10 a State may—

11 “(A) notwithstanding the absence of a re-
12 quest in writing by the affected local govern-
13 ment and the affected local solid waste planning
14 unit, if any—

15 “(i) limit the quantity of out-of-State
16 municipal and industrial waste received for
17 disposal at each landfill of the landfills in
18 the State to an annual quantity equal to
19 the quantity of out-of-State municipal and
20 industrial waste received for disposal at
21 the landfill during the calendar year 1992
22 or 1993, whichever is less; and

23 “(ii) limit the disposal of out-of-State
24 municipal and industrial waste at the land-
25 fills that received, during calendar year

1 1992, documented shipments of more than
2 50,000 tons of out-of-State municipal and
3 industrial waste representing more than 30
4 percent of all municipal waste and indus-
5 trial waste received at the landfill during
6 the calendar year, by prohibiting at each
7 such landfill the disposal, in any year, of a
8 quantity of out-of-State municipal and in-
9 dustrial waste that is greater than 30 per-
10 cent of all municipal and industrial waste
11 received at the landfill during calendar
12 year 1992; and

13 “(B) if requested in writing by the affected
14 local government and the affected local solid
15 waste planning unit, if any, prohibit the dis-
16 posal of out-of-State municipal and industrial
17 waste in a landfill cell in any of the landfills
18 that does not meet the design and location
19 standards and leachate collection and ground
20 water monitoring requirements under the laws
21 of the State (including regulations) in effect on
22 January 1, 1994, for new landfills.

23 “(3) ADDITIONAL LIMITATIONS.—In addition to
24 the authorities provided in paragraph (1)(A), begin-
25 ning with calendar year 1997, the Governor of a

1 State, if requested in writing by the affected local
2 government and the affected local solid waste plan-
3 ning unit, if any, may further limit the disposal of
4 out-of-State municipal and industrial waste as pro-
5 vided in paragraph (2)(A)(ii) by reducing the 30
6 percent annual quantity limitation to 20 percent in
7 each of calendar years 1998 and 1999, and to 10
8 percent in each succeeding calendar year.

9 “(4) APPLICATION OF LIMITATIONS.—

10 “(A) IN GENERAL.—Any limitation im-
11 posed by the Governor of a State under para-
12 graph (2)(A)—

13 “(i) shall be applicable throughout the
14 State;

15 “(ii) shall not discriminate against
16 any particular landfill within the State;
17 and

18 “(iii) shall not discriminate against
19 any shipments of out-of-State municipal
20 and industrial waste on the basis of State
21 of origin.

22 “(B) RESPONSE TO REQUESTS BY AF-
23 FECTED LOCAL GOVERNMENTS.—In responding
24 to requests by affected local governments under
25 paragraphs (1)(A) and (2)(B), the Governor of

1 a State shall respond in a manner that does not
2 discriminate against any particular landfill
3 within the State and does not discriminate
4 against any shipments of out-of-State municipal
5 and industrial waste on the basis of State of
6 origin.

7 “(5) PROCEDURE FOR EXERCISING AUTHOR-
8 ITY.—

9 “(A) INFORMATION FROM GOVERNOR DOC-
10 UMENTING QUANTITY OF WASTE.—The Gov-
11 ernor of a State who intends to exercise the au-
12 thority provided in this paragraph shall, not
13 later than 120 days after the date of enactment
14 of this section, submit to the Administrator in-
15 formation documenting the quantity of out-of-
16 State municipal and industrial waste received
17 for disposal in the State of the Governor during
18 each of calendar years 1992 and 1993.

19 “(B) NOTICE AND COMMENT.—On receipt
20 of the information submitted pursuant to sub-
21 paragraph (A), the Administrator shall notify
22 the Governor of each State and the public and
23 shall provide a comment period of not less than
24 30 days.

1 “(C) DETERMINATION BY ADMINISTRATOR
2 CONCERNING QUANTITY OF WASTE.—Not later
3 than 60 days after receipt of information from
4 the Governor of a State under subparagraph
5 (A), the Administrator shall determine the
6 quantity of out-of-State municipal and indus-
7 trial waste that was received at each landfill
8 covered by the exceptions provided in subsection
9 (b) for disposal in the State of the Governor
10 during calendar years 1992 and 1993, and pro-
11 vide notice of the determination to the Governor
12 of each State. A determination by the Adminis-
13 trator under this subparagraph shall be final
14 and not subject to judicial review.

15 “(D) PUBLICATION OF QUANTITY OF
16 WASTE.—Not later than 180 days after the
17 date of enactment of this section, the Adminis-
18 trator shall publish a list of the quantity of out-
19 of-State municipal and industrial waste that
20 was received during each of calendar years
21 1992 and 1993 at each landfill covered by the
22 exceptions provided in subsection (b) for dis-
23 posal in each State in which the Governor of
24 the State intends to exercise the authority pro-

1 vided in this paragraph, as determined in ac-
2 cordance with subparagraph (C).

3 “(6) DESIGNATION OF AFFECTED LOCAL GOV-
4 ERNMENT.—

5 “(A) IN GENERAL.—Not later than 90
6 days after the date of the enactment of this sec-
7 tion, the Governor of each State shall designate
8 which entity listed in subsection (c)(1) shall
9 serve as the affected local government for ac-
10 tions taken under this section.

11 “(B) FAILURE TO MAKE DESIGNATION.—If
12 the Governor of a State fails to make a des-
13 ignation, the affected local government of the
14 State shall be the city, town, borough, county,
15 parish, or other public body created pursuant to
16 the law of the State with primary jurisdiction
17 over the land or the use of land on which the
18 facility is located.

19 “(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT
20 OUT-OF-STATE MUNICIPAL AND INDUSTRIAL WASTE.—
21 The authority to prohibit the disposal of out-of-State mu-
22 nicipal and industrial waste provided under subsection
23 (a)(1) shall not apply to—

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

1 “(A) received during calendar year 1992
2 documented shipments of out-of-State municipi-
3 pal and industrial waste; and

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

10 “(2) proposed landfills that, prior to January 1,
11 1994, received—

12 “(A) an approval from the affected local
13 government to receive municipal waste and in-
14 dustrial waste generated outside the county or
15 the State in which the landfill is located; and

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

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

20 “(A) received, during calendar year 1992,
21 documented shipments of out-of-State municipi-
22 pal and industrial waste;

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

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

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

5 “(1) AFFECTED LOCAL GOVERNMENT.—Subject
6 to subsection (a)(6), the term ‘affected local govern-
7 ment’, with respect to a landfill or incinerator,
8 means the elected officials of the city, town, bor-
9 ough, county, or parish in which the facility is lo-
10 cated.

11 “(2) AFFECTED LOCAL SOLID WASTE PLAN-
12 NING UNIT.—The term ‘affected local solid waste
13 planning unit’ means a political subdivision of a
14 State with authority relating to solid waste manage-
15 ment planning in accordance with State law.

16 “(3) INDUSTRIAL WASTE.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the term ‘industrial waste’
19 means refuse (and refuse-derived fuel) gen-
20 erated by an industrial source, consisting of
21 paper, wood, yard wastes, plastics, leather, rub-
22 ber, or other combustible or noncombustible
23 materials such as metal or glass, or any com-
24 bination thereof.

1 “(B) EXCEPTIONS.—The term ‘industrial
2 waste’ does not include—

3 “(i) any solid waste identified or listed
4 as a hazardous waste under section 3001;

5 “(ii) any solid waste, including con-
6 taminated soil and debris, resulting from a
7 response action taken under section 104 or
8 106 of the Comprehensive Environmental
9 Response, Compensation, and Liability Act
10 (42 U.S.C. 9604 or 9606) or a corrective
11 action taken under this Act;

12 “(iii) any metal, pipe, glass, plastic,
13 paper, textile, or other material that has
14 been separated or diverted from industrial
15 waste and has been transported into the
16 State for the purpose of recycling or rec-
17 lamation;

18 “(iv) any solid waste that is—

19 “(I) generated by an industrial
20 facility; and

21 “(II) transported for the purpose
22 of treatment, storage, or disposal to a
23 facility that is owned or operated by
24 the generator of the waste, or is lo-
25 cated on property owned by the gener-

1 ator or a company with which the
2 generator is affiliated;

3 “(v) any solid waste generated inci-
4 dent to the provision of service in inter-
5 state, intrastate, foreign, or overseas air
6 transportation;

7 “(vi) any medical waste that is seg-
8 regated from or not mixed with industrial
9 waste; or

10 “(vii) any material or product re-
11 turned from a dispenser or distributor to
12 the manufacturer for credit, evaluation, or
13 possible reuse.

14 “(4) MUNICIPAL WASTE.—

15 “(A) IN GENERAL.—The term ‘municipal
16 waste’ means refuse (and refuse-derived fuel)
17 generated by the general public or from a resi-
18 dential, commercial, or institutional source, or
19 any combination thereof, consisting of paper,
20 wood, yard wastes, plastics, leather, rubber, or
21 other combustible or noncombustible materials
22 such as metal or glass, or any combination
23 thereof.

24 “(B) EXCEPTIONS.—The term ‘municipal
25 waste’ does not include—

1 “(i) any solid waste identified or listed
2 as a hazardous waste under section 3001;

3 “(ii) any solid waste, including con-
4 taminated soil and debris, resulting from a
5 response action taken under section 104 or
6 106 of the Comprehensive Environmental
7 Response, Compensation, and Liability Act
8 (42 U.S.C. 9604 or 9606) or a corrective
9 action taken under this Act;

10 “(iii) any metal, pipe, glass, plastic,
11 paper, textile, or other material that has
12 been separated or diverted from municipal
13 waste and has been transported into the
14 State for the purpose of recycling or rec-
15 lamation;

16 “(iv) any solid waste generated inci-
17 dent to the provision of service in inter-
18 state, intrastate, foreign, or overseas air
19 transportation;

20 “(v) any medical waste that is seg-
21 regated from or not mixed with municipal
22 waste; or

23 “(vi) any material or product returned
24 from a dispenser or distributor to the man-

1 ufacturer for credit, evaluation, or possible
2 reuse.

3 “(5) OUT-OF-STATE MUNICIPAL AND INDUS-
4 TRIAL WASTE.—With respect to a State, the term
5 ‘out-of-State municipal and industrial waste’ means
6 municipal waste and industrial waste generated out-
7 side of the State. To the extent that it is consistent
8 with the United States-Canada Free Trade Agree-
9 ment, the North American Free Trade Agreement,
10 and the General Agreement on Tariffs and Trade,
11 the term shall include municipal waste and indus-
12 trial waste generated outside of the United States.”.

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

14 The table of contents in section 1001 of the Solid
15 Waste Disposal Act (42 U.S.C. prec. 6901) is amended
16 by adding at the end of the items relating to subtitle D
17 the following new item:

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

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