

105TH CONGRESS  
2D SESSION

# H. R. 4635

To authorize States and political subdivisions of States to control the management of municipal solid waste generated within their jurisdictions, and to exempt States and political subdivisions of States from civil liability with respect to the good faith passage, implementation, and enforcement of flow control ordinances prior to May 16, 1994.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1998

Mr. MINGE introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To authorize States and political subdivisions of States to control the management of municipal solid waste generated within their jurisdictions, and to exempt States and political subdivisions of States from civil liability with respect to the good faith passage, implementation, and enforcement of flow control ordinances prior to May 16, 1994.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AUTHORIZATION FOR STATES AND POLITICAL**  
2 **SUBDIVISIONS TO CONTROL MOVEMENT OF**  
3 **MUNICIPAL SOLID WASTE.**

4 (a) **AUTHORITY.**—Subject to subsection (b), a State  
5 or political subdivision of a State may require, by law, or-  
6 dinance, or regulation, that all or any portion of the mu-  
7 nicipal solid waste generated within its jurisdiction be  
8 processed, composted, disposed of, or otherwise managed  
9 at a facility designated by the State or political subdivision  
10 for that purpose.

11 (b) **LIMITATION.**—The authority provided by sub-  
12 section (a) may be exercised only if the designated waste  
13 management facility is in compliance with all applicable  
14 Federal and State environmental laws and regulations.

15 (c) **MATERIALS SEPARATED FOR RECYCLING NOT**  
16 **COVERED.**—Nothing in this section shall be interpreted,  
17 construed, or applied to authorize a State or political sub-  
18 division of a State to require materials that have been sep-  
19 arated or diverted from municipal solid waste, for the pur-  
20 pose of recycling or composting, to be processed,  
21 composted, disposed of, or otherwise managed at a facility  
22 designated by the State or political subdivision of the  
23 State.

24 (d) **DEFINITION.**—For purposes of this Act, the term  
25 “municipal solid waste” means garbage and refuse that  
26 is discarded as solid wastes from residential, commercial,

1 and institutional sources and community activities, includ-  
2 ing residue remaining after recyclable materials have been  
3 separated. The term does not include—

4 (1) any waste identified or listed as hazardous  
5 waste under section 3001 of the Solid Waste Dis-  
6 posal Act (42 U.S.C. 6921) other than any such  
7 hazardous waste that is contained in household  
8 waste from single and multiple dwellings, and other  
9 residential sources; and

10 (2) materials and products returned from a dis-  
11 penser or distributor to the manufacturer for credit,  
12 evaluation, and possible reuse.

13 **SEC. 2. LIABILITY EXEMPTION.**

14 (a) DEFINITIONS.—For purposes of this section—

15 (1) the term “State or local government”  
16 means—

17 (A) a State, city, county, parish, town,  
18 township, village, or any other general function  
19 governmental unit established by State law; or

20 (B) a solid waste management district or  
21 any other special function governmental unit es-  
22 tablished by State law in 1 or more States for  
23 the purpose of managing or regulating solid  
24 waste disposal; and

1           (2) the term “flow control authority” means the  
2           authority to control the movement of municipal solid  
3           waste or voluntarily relinquished recyclable material  
4           and direct such waste or material to a waste man-  
5           agement facility or facility for recyclable material.

6           (b) PROHIBITION.—No damages, interest on dam-  
7           ages, costs, or attorneys’ fees may be recovered in any  
8           claim against any State or local government, or official  
9           or employee thereof, based on the exercise of flow control  
10          authority as authorized by section 1.

11          (c) RETROACTIVITY.—Subsection (b) shall apply to  
12          cases commenced on or after the date of enactment of this  
13          Act, and shall apply to cases commenced before such date  
14          except cases in which a final judgment no longer subject  
15          to judicial review has been rendered.

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