

105TH CONGRESS  
1ST SESSION

# S. 384

To amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside the State.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 1997

Mr. CONRAD introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside the State.

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. AUTHORITY FOR STATES TO REGULATE MUNIC-**  
4 **IPAL SOLID WASTE GENERATED IN ANOTHER**  
5 **STATE.**

6 (a) AMENDMENT.—Subtitle D of the Solid Waste  
7 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-  
8 ing at the end the following:

1 **“SEC. 4011. AUTHORITY FOR STATES TO REGULATE MUNIC-**  
 2 **IPAL SOLID WASTE GENERATED IN ANOTHER**  
 3 **STATE.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) AFFECTED LOCAL GOVERNMENT.—The  
 6 term ‘affected local government’ means the elected  
 7 officials of a political subdivision of a State in which  
 8 a facility for the treatment, incineration, or disposal  
 9 of municipal solid waste is located (as designated by  
 10 the State under subsection (d)).

11 “(2) AFFECTED LOCAL SOLID WASTE PLAN-  
 12 NING UNIT.—The term ‘affected local solid waste  
 13 planning unit’ means a planning unit, established  
 14 under State law, that has—

15 “(A) jurisdiction over the geographic area  
 16 in which a facility for the treatment, inciner-  
 17 ation, or disposal of municipal waste is located;  
 18 and

19 “(B) authority relating to solid waste man-  
 20 agement planning.

21 “(3) MUNICIPAL SOLID WASTE.—

22 “(A) IN GENERAL.—The term ‘municipal  
 23 solid waste’ means refuse, and any nonhazard-  
 24 ous residue generated from the combustion of  
 25 the refuse, generated by—

26 “(i) the general public;

1 “(ii) a residential, commercial, or in-  
2 dustrial source (or any combination of the  
3 sources); or

4 “(iii) a municipal solid waste inciner-  
5 ator facility.

6 “(B) INCLUSIONS.—The term ‘municipal  
7 solid waste’ includes refuse that consists of  
8 paper, wood, yard waste, plastic, leather, rub-  
9 ber, or other combustible or noncombustible  
10 material such as metal or glass (or any com-  
11 bination of the materials).

12 “(C) EXCLUSIONS.—The term ‘municipal  
13 solid waste’ does not include—

14 “(i) hazardous waste identified under  
15 section 3001;

16 “(ii) waste resulting from an action  
17 taken under section 104 or 106 of the  
18 Comprehensive Environmental Response,  
19 Compensation, and Liability Act of 1980  
20 (42 U.S.C. 9604, 9606);

21 “(iii) material collected for the pur-  
22 pose of recycling or reclamation;

23 “(iv) waste generated in the provision  
24 of service in interstate, intrastate, foreign,  
25 or overseas air transportation;

1 “(v) industrial waste (including debris  
2 from construction or demolition) that is  
3 not identical to municipal solid waste in  
4 composition and physical and chemical  
5 characteristics or that is not collected and  
6 disposed of with other municipal solid  
7 waste collection services; or

8 “(vi) medical waste that is segregated  
9 from municipal solid waste.

10 “(b) AUTHORITY TO REGULATE.—

11 “(1) IN GENERAL.—Each State is authorized to  
12 enact and enforce a State law that regulates the  
13 treatment, incineration, and disposal of municipal  
14 solid waste generated in another State.

15 “(2) AUTHORITIES.—A State law described in  
16 paragraph (1) may include provisions for—

17 “(A) the imposition of a ban or limit on  
18 the importation of municipal solid waste gen-  
19 erated outside the State; and

20 “(B) the collection of differential fees or  
21 other charges for the treatment, incineration, or  
22 disposal of municipal solid waste generated in  
23 another State.

24 “(c) LOCAL GOVERNMENT APPROVAL.—

1           “(1) IN GENERAL.—Except as provided in para-  
2           graph (2) or as provided under State law, the owner  
3           or operator of a landfill, incinerator, or other waste  
4           disposal facility in a State may not accept for treat-  
5           ment, incineration, or disposal any municipal solid  
6           waste generated outside the State unless the owner  
7           or operator has obtained a written authorization to  
8           accept the waste from—

9                   “(A) the affected local government; and

10                   “(B) any affected local solid waste plan-  
11           ning unit established under State law.

12           “(2) EXCEPTIONS.—

13                   “(A) IN GENERAL.—Paragraph (1) shall  
14           not apply with respect to an owner or operator  
15           of a landfill, incinerator, or other waste disposal  
16           facility that—

17                   “(i) otherwise complies with all appli-  
18           cable laws of the State in which the facility  
19           is located relating to the treatment, incin-  
20           eration, or disposal of municipal solid  
21           waste; and

22                   “(ii) before the date of enactment of  
23           this section, accepted for treatment, incin-  
24           eration, or disposal municipal solid waste  
25           generated outside the State.

“(B) EXISTING AUTHORIZATIONS.—An owner or operator of a facility described in paragraph (1) that, before the date of enactment of this section, obtained a written authorization from—

“(i) the appropriate official of a political subdivision of the State (as determined by the State); and

“(ii) any affected local solid waste planning unit established pursuant to the law of the State;

to carry out the treatment, incineration, or disposal of municipal solid waste generated outside the State shall, during the period of authorization, be considered to be in compliance with the requirements of paragraph (1).

“(C) FACILITIES UNDER CONSTRUCTION.—If, before the date of enactment of this section, an appropriate political subdivision of a State (as determined by the State) and any affected local solid waste planning unit established under the law of the State issued a written authorization for a facility that is under construction, or is to be constructed, to accept

1           for treatment, incineration, or disposal municipi-  
2           pal solid waste generated outside the State, the  
3           owner or operator of the facility, when con-  
4           struction is completed, shall be considered to be  
5           in compliance with paragraph (1) during the  
6           period of authorization.

7           “(3) EXPANSION OF FACILITIES.—An owner or  
8           operator that expands a landfill, incinerator, or  
9           other waste disposal facility shall be required to ob-  
10          tain the authorizations required under paragraph (1)  
11          before accepting for treatment, incineration, or dis-  
12          posal municipal solid waste that is generated outside  
13          the State.

14          “(4) PROCEDURE.—Before taking formal action  
15          with respect to an authorization to receive municipal  
16          solid waste or incinerator ash generated outside the  
17          State, the affected local government and the affected  
18          local solid waste planning unit shall—

19                 “(A) require from the owner or operator of  
20                 the facility seeking the authorization and make  
21                 readily available to the Governor, adjoining In-  
22                 dian tribes, and other interested persons for in-  
23                 spection and copying—

1 “(i) a brief description of the planned  
2 facility, including a description of the facil-  
3 ity size, ultimate waste capacity, and an-  
4 ticipated monthly and yearly waste quan-  
5 tity to be handled;

6 “(ii) a map of the facility that dis-  
7 closes—

8 “(I) the location of the facility in  
9 relation to the local road system and  
10 topographical and hydrological fea-  
11 tures; and

12 “(II) any buffer zones and facil-  
13 ity units that are to be acquired by  
14 the owner or operator of the facility;

15 “(iii) a description of the then-current  
16 environmental characteristics of the facil-  
17 ity, including information regarding—

18 “(I) ground water resources; and

19 “(II) alterations that may be ne-  
20 cessitated by or occur as a result of  
21 operation of the facility;

22 “(iv) a description of—

23 “(I) appropriate environmental  
24 controls to be used at the facility, in-  
25 cluding run-on or runoff management,



1 air pollution control devices, source  
2 separation procedures, methane mon-  
3 itoring and control, landfill covers, lin-  
4 ers, leachate collection systems, and  
5 monitoring and testing programs; and

6 “(II) any waste residuals gen-  
7 erated by the facility, including leach-  
8 ate or ash, and the planned manage-  
9 ment of the residuals;

10 “(v) a description of the site access  
11 controls to be employed and roadway im-  
12 provements to be made by the owner or op-  
13 erator and an estimate of the timing and  
14 extent of increased local truck traffic;

15 “(vi) a list of all required Federal,  
16 State, and local permits required to oper-  
17 ate the landfill and receive waste generated  
18 outside the State;

19 “(vii) estimates of the personnel re-  
20 quirements of the facility, including infor-  
21 mation regarding the probable skill and  
22 education levels required for jobs at the fa-  
23 cility that distinguishes between employ-  
24 ment statistics for pre-operational levels  
25 and those for post-operational levels;

1 “(viii)(I) information with respect to  
2 any violations of law (including regula-  
3 tions) by the owner or operator, or subsidi-  
4 aries;

5 “(II) the disposition of enforcement  
6 proceedings taken with respect to the viola-  
7 tions; and

8 “(III) corrective action and rehabilita-  
9 tion measures taken as a result of the pro-  
10 ceedings;

11 “(ix) information required by State  
12 law to be provided with respect to gifts,  
13 contributions, and contracts by the owner  
14 or operator to any elected or appointed  
15 public official, agency, institution, busi-  
16 ness, or charity located within the affected  
17 local area to be served by the facility;

18 “(x) information required by State  
19 law to be provided by the owner or opera-  
20 tor with respect to compliance by the  
21 owner or operator with the State solid  
22 waste management plan in effect under  
23 section 4007;

24 “(xi) information with respect to the  
25 source and amount of capital required to

1           construct and operate the facility in ac-  
 2           cordance with the information provided  
 3           under clauses (i) through (vii); and

4           “(xii) information with respect to the  
 5           source and amount of insurance, collateral,  
 6           or bond secured by the applicant to meet  
 7           all Federal and State requirements;

8           “(B) provide opportunity for public com-  
 9           ment, including at least 1 public hearing; and

10          “(C) not less than 30 days before taking  
 11          formal action—

12           “(i) publish notice of the action in a  
 13           newspaper of general circulation; and

14           “(ii) notify the Governor, adjoining  
 15           local governments, and adjoining Indian  
 16           tribes.

17          “(d) DESIGNATION OF AFFECTED LOCAL GOVERN-  
 18          MENT.—

19           “(1) IN GENERAL.—Not later than 90 days  
 20          after the date of enactment of this section, the Gov-  
 21          ernor of each State shall designate the type of politi-  
 22          cal subdivision of the State that shall serve as the  
 23          affected local government for the purpose of author-  
 24          izing a facility to accept for treatment, incineration,

1 or disposal of municipal solid waste generated out-  
2 side of the State.

3 “(2) FAILURE TO DESIGNATE.—If the Governor  
4 of a State fails to make a designation by the date  
5 specified in paragraph (1), the affected local govern-  
6 ment shall be the public body with primary jurisdic-  
7 tion over the land or use of the land on which the  
8 facility is located.”.

9 (b) TABLE OF CONTENTS.—The table of contents for  
10 subtitle D of the Solid Waste Disposal Act is amended  
11 by adding after the item relating to section 4010 the fol-  
12 lowing:

“Sec. 4011. Authorization for States to regulate municipal solid waste generated  
in another State.”.

