

H.234

Introduced by Representatives Miller of Shaftsbury, Botzow of Pownal,

Browning of Arlington, Cina of Burlington, Corcoran of

Bennington, Fields of Bennington, Morris of Bennington,

Morrissey of Bennington, Sibilia of Dover, Sullivan of Dorset,

and Till of Jericho

Referred to Committee on

Date:

Subject: Conservation and development; waste management; hazardous

materials releases; liability; municipal landfills

Statement of purpose of bill as introduced: This bill proposes to exempt

municipalities from liability for a hazardous material release from a municipal

landfill if certain conditions are satisfied.

An act relating to the liability of municipalities for hazardous material
releases from landfills

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The General Assembly finds that:

- 1 (1) 1967 Acts and Resolves No. 90 required each town and city in
2 Vermont to maintain sanitary landfills or incinerators for the disposal of solid
3 waste.
- 4 (2) At the time of initial landfill construction, the State prohibited few, if
5 any, materials from landfill disposal.
- 6 (3) The State ultimately prohibited landfill disposal of specified
7 hazardous materials, but in many instances the State designated the material as
8 hazardous years after the material was first manufactured or used in commerce.
9 Consequently, materials often were legally disposed of in municipal landfills
10 for years prior to their designation as hazardous.
- 11 (4) In 1985, the General Assembly enacted 10 V.S.A. § 6615, which
12 holds an owner or operator of a facility at which a hazardous material was
13 disposed strictly liable for a release of the hazardous material from the facility.
- 14 (5) The potential liability of a municipality for the response to and
15 remediation of a hazardous material release from a landfill can be extensive
16 and often well beyond available municipal financial resources or insurance
17 coverage, thereby subjecting wholly innocent municipal residents to increased
18 tax burdens.
- 19 (6) In 1992, the General Assembly required the closure of municipal
20 landfills, but municipalities remain potentially liable for a hazardous material

1 release from the landfill, including for the release of materials designated as
2 hazardous after the landfill closed.

3 (7) The State should exempt municipalities from liability for hazardous
4 material releases from municipal landfills and assume the cost of response or
5 remediation of the hazardous material when the Secretary of Natural Resources
6 determines that the municipality was not responsible for the generation or
7 transport of the hazardous material at or to the landfill.

8 Sec. 2. 10 V.S.A. § 6615e is added to read:

9 § 6615e. LIABILITY OF MUNICIPAL LANDFILLS; EXEMPTION

10 (a) Application. A municipality may apply to the Secretary for an
11 exemption from liability under section 6615 of this chapter for the release of a
12 hazardous material from a landfill owned by the municipality.

13 (b) Conditions for approval. The Secretary shall approve an application
14 under subsection (a) of this section if all of the following apply:

15 (1) the landfill was in operation prior to July 1, 1992;

16 (2) the municipality acquired or operated the landfill in order to comply
17 with the requirements of 1967 Acts and Resolves No. 90;

18 (3) the municipality closed the landfill as required by this chapter and is
19 in compliance with all statutory requirements or rules regarding maintenance
20 and monitoring of the closed landfill;

1 (4) a hazardous material release from the landfill caused groundwater
2 contamination;

3 (5) the municipality is not a generator or transporter of the hazardous
4 material released from the landfill; and

5 (6) the Secretary determines that exempting the municipality from
6 liability under this section is in the public interest.

7 (c) Scope of exemption. The Secretary's approval of an application for
8 exemption under subsection (b) of this section exempts the municipality from
9 liability under subdivisions 6615(a)(1) and (2) of this chapter as an owner or
10 operator of the landfill. An exemption approved under this section shall not
11 apply to liability under subdivisions 6615(a)(3) and (4) for which the
12 municipality is responsible as a generator or transporter.

13 (d) Conditions of exemption. The Secretary may specify terms and
14 conditions of an exemption under subsection (b) of this section, including
15 requirements for access by the Secretary to the landfill.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on passage.