

AMENDED IN SENATE JUNE 22, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1178

**Introduced by Assembly Member Ma
(Coauthor: Assembly Member Cedillo)**

February 18, 2011

An act to amend Sections 40002, 40900.1, and 41903 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Ma. Solid waste: place of origin.

Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities.

This bill would prohibit a city or county, *including by an ordinance enacted by initiative by the voters of a city or county*, from otherwise restricting or limiting ~~in any way~~ the importation of solid waste into a *privately owned solid waste facility* in that city or county based on place of origin, except as specified with regard to *requiring a privately owned or operated solid waste facilities facility to accept certain waste, allowing a privately owned solid waste facility to abrogate certain agreements, or the preventing a city or county from exercising local land use authority.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40002 of the Public Resources Code is
2 amended to read:

3 40002. (a) As an essential part of the state’s comprehensive
4 program for solid waste management, and for the preservation of
5 health and safety, and the well-being of the public, the Legislature
6 declares that it is in the public interest for the state, as sovereign,
7 to authorize and require local agencies, as subdivisions of the state,
8 to make adequate provision for solid waste handling, both within
9 their respective jurisdictions and in response to regional needs
10 consistent with the policies, standards, and requirements of this
11 division and all regulations adopted pursuant to this division. The
12 provisions of this division which authorize and require local
13 agencies to provide adequate solid waste handling and services,
14 and the actions of local agencies taken pursuant thereto, are
15 intended to implement this state policy.

16 (b) The Legislature further declares that restrictions on the
17 disposal of solid waste that discriminate on the basis of the place
18 of origin of the waste are an obstacle to, and conflict with,
19 statewide and regional policies to ensure adequate and appropriate
20 capacity for solid waste disposal.

21 SEC. 2. Section 40900.1 of the Public Resources Code is
22 amended to read:

23 40900.1. The Legislature hereby further finds and declares all
24 of the following:

25 (a) It is important to encourage state agencies to plan and
26 implement programs that will reduce the amount of solid waste
27 going to disposal facilities through source reduction, recycling,
28 and composting.

29 (b) Local agencies, other than a host jurisdiction, and federal
30 agencies should be encouraged to plan and implement programs
31 that will reduce the amount of solid waste going to disposal
32 facilities through source reduction, recycling, and composting.

33 (c) Each state agency shall, to the extent feasible and within
34 existing budgetary constraints, develop and implement source
35 reduction, recycling, and composting programs that will reduce
36 the amount of solid waste going to disposal facilities. Those
37 programs shall be consistent with Executive Order W-7-91, which
38 ordered state agencies to establish recycling programs, reduce

1 paper waste, purchase recycled products, and implement measures
2 that minimize the generation of waste.

3 (d) Local, state, and federal agencies generating solid waste that
4 is sent to a host jurisdiction for disposal should be encouraged to
5 provide the host jurisdiction with information on the amount of
6 solid waste and regarding any solid waste source reduction,
7 recycling, or composting programs that have been implemented
8 by the agency, to assist the host jurisdiction in developing and
9 implementing the planning requirements of this division.

10 ~~(e) Restrictions or limits on the importation of solid waste based~~
11 ~~on the place of origin are not aspects of solid waste handling~~
12 ~~subject to local government determination because they~~
13 ~~unreasonably limit the disposal of solid waste.~~

14 SEC. 3. Section 41903 of the Public Resources Code is
15 amended to read:

16 41903. (a) A city or county may assess special fees of a
17 reasonable amount on the importation of waste from outside of
18 the county to publicly owned or privately owned facilities.

19 (b) ~~(1) A city or county~~ *A city or county, including by an*
20 *ordinance enacted by the voters of that city or county,* may not
21 otherwise restrict or limit ~~in any way~~ the importation of solid waste
22 into *a privately owned facility in* that city or county based on the
23 place of origin.

24 ~~(2) Paragraph (1) does not do any of the following:~~

25 ~~(A) Restrict a publicly owned solid waste facility from limiting~~
26 ~~or restricting its acceptance of solid waste from outside the~~
27 ~~jurisdiction of the public agency that owns the facility.~~

28 ~~(2) This subdivision does not do any of the following:~~

29 ~~(B)~~

30 (A) Require a privately owned solid waste facility or privately
31 operated solid waste facility to accept solid waste from outside the
32 city or county where the facility is located.

33 (B) *Allow a privately owned solid waste facility to abrogate a*
34 *written disposed agreement guaranteeing permitted capacity to a*
35 *host jurisdiction, including a regional agency.*

36 (C) Prevent a city or county from exercising its land use
37 authority, including making a zoning, permitting, or other land use
38 determination *that is subject to paragraph (1).*

1 (c) A city or county shall not export solid waste to any other
2 jurisdiction unless the exporting city or county has done either of
3 the following:

4 (1) Implemented, within one year following the date when the
5 countywide integrated waste management plan is required to be
6 submitted to the department pursuant to subdivision (a) or (b) of
7 Section 41791, or a later date established or permitted by the
8 department, both an approved city or county household hazardous
9 waste element and a source reduction and recycling element.

10 (2) Submitted a countywide integrated waste management plan,
11 with which it is in compliance.

12 (d) Notwithstanding subdivision (c), until one year following
13 the date when the countywide integrated waste management plan
14 is required to be submitted to the department pursuant to
15 subdivision (a) or (b) of Section 41791, or a later date established
16 by the department, nothing in this section shall be construed as
17 prohibiting the export of solid waste.

18 (e) The department may waive the requirements of subdivision
19 (c) if the department determines that all additional reasonable
20 source reduction and recycling programs are being implemented
21 in the city or county or if the department determines that the system
22 to export waste supports or enhances the city or county source
23 recovery and recycling element.