

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 799 - L.D. 1251

**An Act to Clarify Immunity from Liability for Municipalities Engaged in Recycling Activities**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 14 MRSA §159-B, sub-§1, ¶B**, as enacted by PL 1991, c. 487, §1, is amended to read:

B. "Recycling activities" means collection or separation or both of materials on the property of a municipality or in containers:

- (1) Owned by a municipality or regional association as defined in Title 38, section 1303-C, subsection 24; and
- (2) Located on the premises of the owner, lessee or occupant under an agreement between the municipality or regional association and the owner, lessee or occupant of the premises.

**Sec. 2. 14 MRSA §159-B, sub-§4-A** is enacted to read:

**4-A. Municipal immunity.** Except as provided in subsection 4, a municipality performing recycling activities in accordance with this subsection is performing a discretionary function pursuant to section 8104-B, subsection 3 and is immune from liability for personal injury, property damage or death, including of a member of the public, caused by recycling activities of the municipality on property owned by the municipality or on the premises of another person. A municipality is immune from liability under this subsection only if the municipality has adopted and regularly enforces a written policy establishing reasonable safety standards applicable to the premises where the municipality performs recycling activities. A written policy adopted under this subsection must be developed by a credentialed industrial hygienist and must comply with United States Department of Labor, Occupational Safety and Health Administration requirements. As used in this subsection, "credentialed industrial hygienist" means an industrial hygienist certified by a national association of industrial hygiene professionals.