

1 S.11

2 Introduced by Senators Campion and Sears

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; waste management; hazardous
6 materials releases; liability; municipal landfills

7 Statement of purpose of bill as introduced: This bill proposes to exempt
8 municipalities from liability for a hazardous material release from a municipal
9 landfill if certain conditions are satisfied.

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

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

13 Sec. 1. FINDINGS

14 The General Assembly finds that:

15 (1) 1967 Acts and Resolves No. 90 required each town and city in

16 Vermont to maintain sanitary landfills or incinerators for the disposal of solid
17 waste.

18 (2) At the time of initial landfill construction, the State prohibited few, if
19 any, materials from landfill disposal.

1 (3) The State ultimately prohibited landfill disposal of specified
2 hazardous materials, but in many instances the State designated the material as
3 hazardous years after the material was first manufactured or used in commerce.
4 Consequently, materials often were legally disposed of in municipal landfills
5 for years prior to designation as hazardous.

6 (4) In 1985, the General Assembly enacted 10 V.S.A. § 6615, which
7 holds an owner or operator of a facility at which a hazardous material was
8 disposed strictly liable for a release of the hazardous material from the facility.

9 (5) The potential liability of a municipality for the response to and
10 remediation of a hazardous material release from a landfill can be extensive
11 and often well beyond available municipal financial resources or insurance
12 coverage, thereby subjecting wholly innocent municipal residents to increased
13 tax burdens.

14 (6) In 1992, the General Assembly required the closure of municipal
15 landfills, but municipalities remain potentially liable for a hazardous material
16 release from the landfill, including for the release of materials designated as
17 hazardous after the landfill closed.

18 (7) The State should exempt municipalities from liability for hazardous
19 materials releases from municipal landfills and assume the cost of response or
20 remediation of the hazardous material when the Secretary of Natural Resources

1 determines that the municipality was not responsible for the generation or
2 transport of the hazardous material at or to the landfill.

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

4 § 6615e. LIABILITY OF MUNICIPAL LANDFILLS; EXEMPTION

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

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

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

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

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

16 (4) a hazardous material release from the landfill caused groundwater
17 contamination;

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

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

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

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

10 Sec. 3. EFFECTIVE DATE

11 This act shall take effect on passage.