



4301 Connecticut Avenue, N.W., Suite 300 • Washington, D.C. • 20008 ☎ 202-244-4700 • Fax: 202-364-3792

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Contact

Bruce Parker

President/CEO

National Solid Wastes Management Association

202-364-3720

301-351-8356 (Cell)

bparker@envasns.org

NSWMA Challenges Michigan Laws Closing Landfills to Other States and Canada

The National Solid Wastes Management Association (NSWMA) filed a lawsuit late yesterday challenging the constitutionality of several bills signed into law March 26 by Michigan Gov. Jennifer Granholm. The lawsuit, filed in federal district court in Michigan, challenges the laws for violating several provisions of the United States Constitution.

NSWMA is challenging laws banning the disposal of certain non-hazardous materials in Michigan and extending the reach of that ban to other states and to Canada. NSWMA, joined by several solid waste management companies, noted the new legislation violates a number of constitutional principles including:

- The commerce clause, which authorizes Congress to “regulate commerce with foreign powers and among the states”.
- The foreign commerce clause, which restricts protectionist policies and restrains states and local government bodies, from excessive interference in foreign affairs.

This lawsuit comes on the heels of NSWMA's recent successful lawsuit against a Wayne County, Michigan, ordinance that attempted to prevent any landfill located in that county from accepting waste from any jurisdiction that did not have a container deposit law similar to Michigan's. A federal district court declared that ordinance unconstitutional in early February.

"Landfills in all fifty states and Canada are full of products manufactured in Michigan, products that moved across state and international lines due to the protections of the Constitution. These landfills provide safe disposal under U.S. and Canadian regulations designed to protect the public health and the environment," said Bruce J. Parker, NSWMA President. "We regret once again seeking relief in the courts on this issue, however, we must act to protect our members' constitutional rights. The framers of our Constitution wanted to encourage commerce among the states and with foreign countries. The Michigan legislation is a blatant and politically motivated attempt to contradict the principle of an open and competitive national marketplace that has served this country well for over two hundred years. The courts have repeatedly struck down attempts to restrict out-of-state waste. They will once again strike down this attempt."

Parker also noted that Michigan exports more than one million pounds of hazardous waste to a disposal facility in Canada, and ships medical and radioactive waste to out-of-state facilities. "The same constitutional and trade provisions that protect Michigan waste generators also protect Michigan landfills that import solid waste," Parker said.

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NSWMA is a non-profit trade association representing for-profit companies providing solid and medical waste collection, recycling and disposal services and companies providing legal and consulting services to the solid waste industry. NSWMA believes in promoting the management of waste in a manner that is environmentally responsible, efficient, profitable and ethical while benefiting the public and protecting employees.