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**SENATE JOINT RESOLUTION NO. 79**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
(Proposed by the Joint Conference Committee  
on March 12, 2004)

(Patrons Prior to Substitute—Senator Obenshain and Delegate Louderback [HJR 247])

*Memorializing the Congress of the United States to enact the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123).*

WHEREAS, recent reports issued by the Department of Environmental Quality reveal that Virginia is currently the second largest importer of municipal solid waste from other states, second only to Pennsylvania, and is currently importing approximately 5.5 million tons annually of municipal solid waste from other states; and

WHEREAS, the amount of municipal solid waste being imported into Virginia is expected to increase in the coming years due to the closure of the Fresh Kills Landfill in New York and increased volumes from other states; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states is prematurely exhausting Virginia's limited landfill capacity; and

WHEREAS, the negative impact of truck, rail, and barge traffic and litter, odors, and noise associated with waste imports occurs at the location of final disposal and along waste transportation routes, and current landfill technology has the potential to fail, leading to long-term cleanup and other associated costs; and

WHEREAS, under current federal law, Virginia cannot regulate the amount of solid waste brought into the Commonwealth each year; and

WHEREAS, the importation of significant amounts of municipal solid waste from other states is inconsistent with Virginia's efforts to promote the Commonwealth as a national and international destination for tourism and high-tech economic development; and

WHEREAS, the Commerce Clause of the United States Constitution and its interpretation and application by the United States Supreme Court and other federal courts regarding interstate solid waste transportation has left Virginia and other states with limited alternatives to regulate, limit, or prohibit the importation of municipal solid waste; and

WHEREAS, the General Assembly of Virginia believes that state and local governments should be given more authority to control the importation of municipal solid waste into their jurisdictions; and

WHEREAS, although state laws governing the importation of municipal solid waste have been ruled to violate the Commerce Clause of the United States Constitution, the enactment of the State Waste Empowerment and Enforcement Provision Act of 2003 would protect states from constitutional challenges to common sense regulation of trash haulers, and empower states to require inspectors at landfills, incinerators, and transfer stations that accept out-of-state municipal solid waste; and

WHEREAS, it is the consensus of the General Assembly of Virginia that state and local governments should be given more authority to limit, reduce, and control the importation of solid waste into their jurisdictions through several provisions, including percentage caps, calendar year freezes, the regulation and restriction of certain modes of transportation, the requirement of state inspectors at facilities handling out-of-state waste, and the assessment of fees for the receipt or disposal of out-of-state municipal solid waste that are different than fees assessed for the receipt or disposal of municipal solid waste generated within the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to enact the State Waste Empowerment and Enforcement Provision Act of 2003 (HR 1123). The Congress is urged to authorize local and state governments to regulate the importation of municipal solid waste into their respective jurisdictions; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter.