

# MAINE STATE LEGISLATURE

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*State Of Maine  
121st Legislature*

*First Regular Session*

*Bill Summaries  
Joint Standing Committee  
on  
Natural Resources*

*July 2003*

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# Maine State Legislature



## Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

### 121st Maine Legislature First Regular Session

#### Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla](http://www.state.me.us/legis/opla)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER PURSUANT TO HP 1212</i> .....	<i>Bills carried over to the 2<sup>nd</sup> Regular Session</i>
<i>CON RES XXX</i> .....	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i> .....	<i>House &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i> .....	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i> .....	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i> .....	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i> .....	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i> .....	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>PASSED</i> .....	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i> .....	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i> .....	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i> .....	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

**David C. Elliott, Director**  
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*Joint Standing Committee on Natural Resources*

**LD 1547**

**An Act To Amend Certain Laws Administered by the Department of Environmental Protection**

**PUBLIC 245**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN MARTIN	OTP-AM	H-298

LD 1547 proposed to correct an inadvertent error and inconsistency created last session when the open burning statute was amended.

It proposed to increase the cap on allocations for the Board of Environmental Protection Fund within the Department of Environmental Protection from \$250,000 annually to \$325,000 annually to meet rising personnel salary and benefit costs for the next several years, including the filling of the Executive Analyst position in the past biennium, and a rise in operating costs, due to a modest increase in general workload from broader public involvement in the licensing and appeal processes, which has resulted in more frequent meetings of the board. The last increase in the allocation cap was in 1997.

It proposed to clarify the statute governing the Department of Environmental Protection's enforcement authority. The Maine Rules of Civil Procedure, Rule 80K allows the department and municipalities to prosecute environmental violations in District Court. Municipalities consistently have 80K actions commenced by both certified nonlawyer code enforcement officers and town attorneys. The department has historically not had employees who are also licensed active members of the bar file cases on the department's behalf since the rule is ambiguous as to whether such a practice is appropriate. This proposed change in the law makes clear that a department practice consistent with current municipal practices is appropriate.

It proposed to repeal the enabling language for the requirement of priority studies because the tasks described in the statute have been completed and the project is no longer active.

It proposed to clarify that an action in court can not be determined to start at any point prior to compliance with court rules. The Maine Rules of Civil Procedure, Rule 80K allows the department and municipalities to prosecute environmental violations in District Court. There is ambiguity between the Maine Revised Statutes, Title 38, section 347-A and the Maine Rules of Civil Procedure, Rule 3 as to the point in time when an action in District Court should be considered to have been initiated.

It proposed to repeal the requirement of annual reporting to the Legislature by the Commissioner of Environmental Protection on unavoidable malfunctions.

It proposed to amend the statutes to change a hearing and reporting requirement concerning classification standards from once every 3 years to once every 4 years.

It proposed to amend the statutes to make the creation of a wetland compensation fee program optional rather than mandatory, to specifically add municipalities to the types of organizations that may create a wetland compensation fee program, to delete the mandatory annual reporting requirement for any such program and to delete the requirement that funds from such a program are turned over to the department if the department's authorization of that program is revoked.

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It proposed to repeal the requirement of annual reporting to the Legislature on the wetlands compensation fee program.

It proposed to repeal the provision that repeals the wetland compensation fee program effective October 15, 2003.

It proposed to make the changes necessary to extend the sunset date for coverage of oil spill cleanup costs by the Ground Water Oil Clean-up Fund. The fund covers cleanup costs for spills from aboveground or underground oil tanks through December 31, 2005, at which point fund coverage, also called the fund insurance program, is repealed under current law. This bill proposed to extend the fund insurance program by 5 years to December 31, 2010.

It proposed to incorporate by reference the latest version of the federal regulations governing spill prevention and control at aboveground oil storage facilities. The purpose of this change is to ensure state and federal requirements are consistent with each other.

**Committee Amendment "A" (H-298)** proposed to change a date to correspond to the latest version of the federal regulations governing spill prevention and control at aboveground oil storage facilities.

### *Enacted Law Summary*

Public Law 2003, chapter 245 does the following:

1. It corrects an inadvertent error and inconsistency created last session when the open burning statute was amended.
2. It increases the cap on allocations for the Board of Environmental Protection Fund within the Department of Environmental Protection from \$250,000 annually to \$325,000 annually to meet rising personnel salary and benefit costs for the next several years, including the filling of the Executive Analyst position in the past biennium, and a rise in operating costs, due to a modest increase in general workload from broader public involvement in the licensing and appeal processes, which has resulted in more frequent meetings of the board. The last increase in the allocation cap was in 1997.
3. It clarifies the statute governing the Department of Environmental Protection's enforcement authority. The Maine Rules of Civil Procedure, Rule 80K allows the department and municipalities to prosecute environmental violations in District Court. Municipalities consistently have 80K actions commenced by both certified nonlawyer code enforcement officers and town attorneys. The department has historically not had employees who are also licensed active members of the bar file cases on the department's behalf since the rule is ambiguous as to whether such a practice is appropriate. This change in the law makes clear that a department practice consistent with current municipal practices is appropriate.
4. It repeals the enabling language for the requirement of priority studies because the tasks described in the statute have been completed and the project is no longer active.
5. It clarifies that an action in court can not be determined to start at any point prior to compliance with court rules. The Maine Rules of Civil Procedure, Rule 80K allows the department and municipalities to prosecute environmental violations in District Court. There is ambiguity between the Maine Revised Statutes, Title 38, section 347-A and the Maine Rules of Civil Procedure, Rule 3 as to the point in time when an action in District Court should be considered to have been initiated.

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6. It repeals the requirement of annual reporting to the Legislature by the Commissioner of Environmental Protection on unavoidable malfunctions.
7. It amends the statutes to change a hearing and reporting requirement concerning classification standards from once every 3 years to once every 4 years.
8. It amends the statutes to make the creation of a wetland compensation fee program optional rather than mandatory, specifically adds municipalities to the types of organizations that may create a wetland compensation fee program, deletes the mandatory annual reporting requirement for any such program and deletes the requirement that funds from such a program are turned over to the department if the department's authorization of that program is revoked.
9. It repeals the requirement of annual reporting to the Legislature on the wetlands compensation fee program.
10. It repeals the provision that repeals the wetland compensation fee program effective October 15, 2003.
11. It makes the changes necessary to extend the sunset date for coverage of oil spill cleanup costs by the Ground Water Oil Clean-up Fund. The fund covers cleanup costs for spills from aboveground or underground oil tanks. It extends the fund insurance program by 5 years to December 31, 2010.
12. It incorporates by reference the latest version of the federal regulations governing spill prevention and control at aboveground oil storage facilities. The purpose of this change is to ensure state and federal requirements are consistent with each other.

LD 1549

### An Act To Fund Municipal Collection of Household Hazardous Waste

P & S 30

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM A	H-494
	OTP-AM B	S-303 CATHCART
	ONTP C	

LD 1549 proposed to generate revenue for the purpose of providing state cost share support for the operational costs incurred by municipalities in the management of household hazardous waste. Under the proposal, revenue would be generated by imposing a 20¢ fee on the retail sale of architectural coatings sold in containers of one gallon and on each unit of general use pesticide distributed for retail sale in this State.

**Committee Amendment "A" (H-494)** was the majority report of the Joint Standing Committee on Natural Resources. It proposed to replace the bill. The amendment proposed to transfer \$438,820 from the Waste Reduction and Recycling Loan Fund to the Maine Solid Waste Management Fund to provide state cost share support for household hazardous waste collection programs. It proposed to require that principal and interest payments received in the Waste Reduction and Recycling Loan Fund be deposited in the Maine Solid Waste Management Fund within 60 days of receipt. It proposed that beginning January 1, 2005, revenue would be generated by imposing a 20¢ fee on the retail sale of architectural coatings and on general use pesticide distributed for retail sale in the State. The Department of Agriculture, Food and Rural Resources, Board of Pesticides Control would collect the pesticide fee and the Department of Administrative and Financial Services, Bureau of Revenue Services would collect the architectural coatings fee. It also proposed that the Joint Standing Committee on Natural