

MAINE STATE LEGISLATURE

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L.D. 1709

(Filing No. S-182)

STATE OF MAINE
SENATE
113TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A " to COMMITTEE AMENDMENT "A"
to H.P. 1251, L.D. 1709, Bill, "AN ACT to Amend the
Laws Administered by the Department of Environmental
Protection."

Amend the amendment by striking out all of sec-
tion 8 and inserting in its place the following:

'Sec. 1. 38 MRSA §464, sub-§4, ¶A, as amended by
PL 1987, c. 180, §4, is further amended to read:

A. Notwithstanding section 414-A, the board
shall not issue a water discharge license for any
of the following discharges:

(1) Direct discharge of pollutants to wa-
ters having a drainage area of less than 10
square miles, except that discharges into
these waters which were licensed prior to
January 1, 1986, shall be allowed to contin-
ue only until practical alternatives exist;

(2) New direct discharge of domestic
pollutants to tributaries of Class-GPA wa-
ters;

(3) Any discharge into a tributary of GPA
waters which, by itself or in combination
with other activities, causes water quality
degradation which would impair the charac-
teristics and designated uses of downstream
GPA waters or causes an increase in the
trophic state of those GPA waters;

(4) Discharge of pollutants to waters of
the State which imparts color, taste,
turbidity, toxicity, radioactivity or other

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1 properties which cause those waters to be
2 unsuitable for the designated uses and char-
3 acteristics ascribed to their class;

4 (5) Discharge of pollutants to any water of
5 the State which violates sections 465, 465-A
6 and 465-B, except as provided in section
7 451; causes the "pH" of fresh waters to fall
8 outside of the 6.0 to 8.5 range; causes the
9 "pH" of estuarine and marine waters to fall
10 outside of the 7.0 to 8.5 range; or causes
11 fish for human consumption to be injurious
12 to human health as determined by the United
13 States Food and Drug Administration under
14 the procedures established by United States
15 Code, Title 21, section 342 or as determined
16 by the Department of Human Services. The
17 Department of Human Services shall establish
18 a protocol for determining risk in these
19 situations. The protocol shall be promul-
20 gated as a rule in accordance with the Maine
21 Administrative Procedure Act, Title 5, chap-
22 ter 375; and

23 (6) New discharges of domestic pollutants
24 to the surface waters of the State which are
25 not conveyed and treated in federal, state,
26 municipal or quasi-municipal sewage facili-
27 ties. "New discharge" means any overboard
28 discharge which is licensed after the effec-
29 tive date of this section. For purposes of
30 licensing, the board shall treat an increase
31 in the licensed volume or quantity of an ex-
32 isting discharge or an expansion in the
33 months during which the discharge will take
34 place as a new discharge of domestic
35 pollutants.

36 Notwithstanding the provisions of this sub-
37 paragraph, an increase in the volume or
38 quantity of domestic pollutants in a li-

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- 1 censed discharge of domestic pollutants ema-
2 nating from an existing commercial or indus-
3 trial business is not prohibited so long as,
4 in addition to all other provisions of ap-
5 plicable law, all the following conditions
6 are met:
- 7 (a) The board finds that, based on the
8 past record of compliance by the li-
9 censee with all requirements of its ex-
10 isting discharge licenses, the licensee
11 is likely to comply with the require-
12 ments of any subsequent license govern-
13 ing the increased discharge. The board
14 shall not make this finding if there
15 have been significant, numerous or re-
16 peated violations of any standard, lim-
17 it or condition of the existing li-
18 censes;
- 19 (b) The licensee agrees, as a license
20 condition, to retain qualified employ-
21 ees or independent consultants to en-
22 sure that the overboard discharge sys-
23 tem is meeting all requirements of the
24 license and to test, monitor and main-
25 tain the system. The board shall re-
26 quire, as a license condition, that the
27 licensee test the effluent on a weekly
28 basis to ensure that the license re-
29 quirements are being met and that the
30 licensee promptly submit reports of
31 these tests to the department; and
- 32 (c) The board finds that all require-
33 ments of paragraph G have been met with
34 respect to the proposed increase in the
35 overboard discharge.'

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STATEMENT OF FACT

2 The purpose of this amendment is to conform the
3 statutory language of the overboard discharge with
4 the intent of the Legislature as expressed during de-
5 bate on the bill in the Senate. At that time, the
6 Legislature expressed its intent that state and fed-
7 eral facilities not be affected by the ban on new
8 overboard discharges. These governmental units
9 should be treated in the same manner as municipali-
10 ties.

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(Sen. Usher)

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SPONSORED BY: Ronald E. Usher

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COUNTY: Cumberland

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