

MAINE STATE LEGISLATURE

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L.D. 1709

(Filing No. H-311)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
FIRST REGULAR SESSION

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 bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain changes in the environmental laws of the State are required for effective administration and enforcement for protection of public welfare and the environment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 4 MRSA §152, sub-§7 is enacted to read:

7. Air quality laws. Original jurisdiction, concurrent with that of the Superior Court, to grant equitable relief in proceedings involving alleged violations of local or state air quality ordinances, regulations or laws, which shall include, but not be limited to, the following:

A. Laws pertaining to registration and licensing, Title 38, sections 589 and 590;

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1 B. Municipal air pollution control laws adopted
2 pursuant to Title 38, section 597; and

3 C. Laws pertaining to air quality standards,
4 emission standards and visible emissions adopted
5 pursuant to Title 38, sections 584-A, 585, 585-A,
6 598, 600, 601, 602, 603-A, 604 and 611.

7 **Sec. 2. 5 MRSA §938, sub-§1, 1C,** as enacted by
8 PL 1985, c. 746, §3, is repealed and the following
9 enacted in its place:

10 C. Director, Bureau of Administration;

11 **Sec. 3. 38 MRSA §342, sub-§5-A, 1B,** as enacted
12 by PL 1985, c. 746, §6, is repealed.'

13 Further amend the bill in section 4 in subsection
14 3 in the 8th line (page 3, line 11 in L.D.) by in-
15 sserting after the following: "special fees." the fol-
16 lowing: 'A special fee shall not exceed \$40,000.'

17 Further amend the bill in section 4 in subsection
18 3 by striking out all of the last underlined sentence
19 (page 3, lines 22 to 24 in L.D.).

20 Further amend the bill in section 5 in subsection
21 4 under the caption "TITLE 38 SECTION" in that part
22 relating to "413" by striking out all of the 2nd line
23 (page 4, line 25 in L.D.) and inserting in its place
24 the following:

25 'A. Residential 75 25'

26 Further amend the bill in section 5 in subsection
27 4 under the caption "TITLE 38 SECTION" in that part
28 relating to "413" by striking out all of the 4th to
29 9th lines (page 4, lines 27 to 32 in L.D.) and in-
30 sserting in their place the following:

31 '1. Flow of less 600 160

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1 than 2,000 gallons
2 per day

3 '2. Flow of 2,000 to 600 500
4 20,000 gallons per
5 day inclusive'

6 Further amend the bill in section 5 in subsection
7 4 under the caption "TITLE 38 SECTION" in that part
8 relating to "413" in paragraph E in the 6th to 8th
9 lines (page 5, lines 20 to 22 in L.D.) by striking
10 out the following: ", but less than or euql to 50,000
11 gallons per day"

12 Further amend the bill in section 5 in subsection
13 4 under the caption "TITLE 38 SECTION" in that part
14 relating to "590" by striking out the lines 2 to 5
15 (page 6, lines 20 to 23 in L.D.) and inserting in
16 their place the following:

17 'A. Greater than or equal 10,050 1,200
18 to 1,000 tons per year of
19 any criteria air
20 pollutant'

21 Further amend the bill by striking out all of
22 sections 8 to 26 and inserting in their place the
23 following:

24 'Sec. 8. 38 MRSA §466, sub-§9-B, as enacted by
25 PL 1987, c. 180, §6, is amended to read:

26 9-B. Quasi-municipal. "Quasi-municipal" means
27 any form of ownership and management by a governmen-
28 tal unit embracing a portion of a municipality, a
29 single municipality or several municipalities which
30 is created by law to deliver public waste water
31 treatment services, but which is not a general
32 purpose state governmental unit.

33 Sec. 9. 38 MRSA §560, sub-§5, as amended by PL
34 1977, c. 78, §205, is further amended to read:

1 5. Exemption. The board may by regulation exempt
2 certain activities not inconsistent with the purposes
3 of this section. An unpowered vessel of less than
4 500 barrels total oil storage capacity is exempt from
5 the provisions of this section, provided that the
6 vessel is subject to any applicable rules adminis-
7 tered by the United States Coast Guard and the owner
8 notifies the department of the location and contents
9 of the vessel within 7 days of establishing the an-
10 chorage.

11 **Sec. 10. 38 MRSA §1364, sub-§4,** as amended by PL
12 1985, c. 746, §34, is further amended to read:

13 4. Designation. In accordance with section
14 1365, the commissioner may declare a site to be an
15 uncontrolled hazardous substance site. The designa-
16 tion may be appealed only upon the issuance of an or-
17 der pursuant to section 1365, subsection 5 2, as pro-
18 vided in section 1365, subsection 4.'

19 Further amend the bill in section 27 in that part
20 designated "§1371." in subsection 2 by striking out
21 all of the last underlined sentence (page 23, lines 2
22 to 8 in L.D.) and inserting in its place the follow-
23 ing: 'Such a lien shall take precedence over all
24 transfers and encumbrances recorded on or after June
25 1, 1987, which affect any interest in the real es-
26 tate, or any part of it, including all real estate
27 which has been included in the property description
28 of the real estate within the preceding 3 years.'

29 Further amend the bill in section 27 in subsec-
30 tion 3 in the firstline (page 23, line 9 in L.D.) by
31 inserting after the underlined word "does" the under-
32 lined word 'not'

33 Further amend the bill by adding before the
34 statement of fact the following:

35 '**Sec. 28. PL 1985, c. 746, §36,** is amended to

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1 STATEMENT OF FACT

2 This amendment makes a variety of technical cor-
3 rections in the original bill. A number of sections
4 are deleted which were covered in separate legisla-
5 tion during this session. The amendment also modi-
6 fies the transition provisions of earlier legisla-
7 tion, Public Law 1985, chapter 746, to allow the Com-
8 missioner of Environmental Protection to appoint new
9 bureau directors of his own choosing while providing
10 the incumbents in those positions with salary protec-
11 tion consistent with the intent of the earlier legis-
12 lation.

13 The amendment modifies the fee structure of the
14 original bill to remain consistent with the fees en-
15 acted by Public Law 1987, c. 180. The combined fis-
16 cal impact of these changes is likely to be somewhat
17 less than the simple sum of the fiscal impacts of
18 Public Law 1987, chapter 180, and the bill, since the
19 increases have some degree of overlap and because the
20 fee categories have been simplified in the bill.

21 The amendment also clarifies the definition of
22 the term, "quasi-municipal" to exclude state-owned
23 facilities.

24 The amendment also adds provisions to the Dis-
25 trict Court's jurisdiction to facilitate enforcement
26 of air quality laws.

27 This amendment is to provide a limited exemption
28 for small oil storage barges used in the islands.
29 The 500 barrel exemption is consistent with the Oil
30 Discharge Prevention and Control law. The amendment
31 also ensures the department is notified of the loca-
32 tion and contents of exempted vessels.

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