

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

L.D. 2121

(Filing No. H- 516)

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

COMMITTEE AMENDMENT "A" to H.P. 1557, L.D. 2121,
Bill, "AN ACT to Improve the Regulation of Pesticides."

Amend the bill in section 1 by striking out all of
that part designated "§625." and inserting in its
place the following:

'§625. Right-of-way spraying; no-spray agreements

Any public utility or the Department of
Transportation, which maintains a right-of-way through
a municipality shall offer a no-spray agreement, with
reasonable provisions, for the municipality to
consider if it desires. Any agreement negotiated may
include, but is not limited to, the responsibilities
of the parties, the allocation of costs and the rights
and remedies of the parties in the event of default
and may apply to all or any part of the right-of-way
within the municipality. As part of the no-spray
agreement, the municipality may either perform the
vegetation control work to standards as provided in
the agreement, or else contract with the public
utility or the Department of Transportation to conduct
the work.

If a reasonable no-spray agreement is offered to a
municipality and an agreement is not reached within 90
days after the date of the offer, the public utility
or the Department of Transportation at its own option

COMMITTEE AMENDMENT "A" to H.P. 1557, L.D. 2121

1 may apply pesticides in the right-of-way under its
2 jurisdiction or use other methods to control the
3 vegetation. If the municipality agrees to perform
4 vegetation control work, but does not perform it by
5 the agreed-upon date, the public utility or the
6 Department of Transportation, after 90 days written
7 notice to the municipality, at its own option may
8 apply pesticides in the right-of-way under its
9 jurisdiction, or use other methods to control the
10 vegetation.

11 It is the intent of this section to make available
12 to municipalities an alternative to right-of-way
13 maintenance procedures which use pesticides. This
14 section does not affect municipal authority to enact
15 ordinances nor the authority of public utilities or
16 the Department of Transportation to maintain its
17 right-of-way clear of unwanted vegetation in the
18 absence of an agreement.'

19 Further amend the bill by striking out all of
20 section 5.

21 Further amend the bill in section 6 in subsection
22 4 in the last paragraph in the 7th and 8th lines (page
23 4, lines 23 and 24 in L.D.) by striking out the
24 following: "criteria for pesticide management" and
25 inserting in its place the following: 'a pesticide
26 management plan' and in the 11th line (page 4, line 27
27 in L.D.) by inserting after the following: "local
28 applicators;" the following: 'owners of land within
29 the critical area;'

30 Further amend the bill in section 7 in that part
31 designated "§1471-U" by striking out all of the first
32 line and inserting in its place the following:

33 '§1471-U. Municipal ordinances'

34 Further amend the bill in section 7 in that part
35 designated "§1471-U" in subsection 4 in the 3rd line
36 (page 5, line 14 in L.D.) by striking out the
37 following: "is not intended to" and inserting in its
38 place the following: 'shall not'

COMMITTEE AMENDMENT "A" to H.P. 1557, L.D. 2121

1 Further amend the bill in section 7 by striking
2 out all of subsection 5 and inserting in its place the
3 following:

4 '5. Failure to file. For any ordinance which is
5 not filed with the board, with notice given to the
6 board in accordance with this section, which is
7 otherwise valid under the laws of this State, any
8 provision that may affect storage, distribution or use
9 of pesticides shall be considered void and of no
10 effect after the deadline for filing and until the
11 board is given proper notice and the ordinance is
12 filed with the board.'

13 Further amend the bill in section 7 by striking
14 out all of that part designated "§1471-V." and
15 inserting in its place the following:

16 '§1471-V. Local participation

17 1. Representation. When the board, under section
18 1471-M, considers the designation of a critical area
19 or the establishment of a pesticide management plan
20 for a critical area, the municipal officers of any
21 affected municipality, or county commissioners in the
22 case of unorganized territories, shall be given the
23 opportunity to select a local representative to serve
24 as an additional board member. For a given action,
25 there shall be only one local representative who shall
26 represent the affected municipality or unorganized
27 territory.

28 2. Participation and voting procedure. A local
29 representative appointed under this section may
30 participate officially and vote in deliberations on
31 the designation of a critical area or on the
32 establishment of a pesticide management plan only for
33 a critical area which is in the municipality or
34 unorganized territory represented. A local
35 representative may participate on the board until
36 final designation of the critical area or final
37 establishment of the pesticide management plan,
38 including any administrative or judicial appeals.
39 When the board considers a proposed critical area or
40 pesticide management plan that affects more than one
41 municipality, the board shall take separate action on
42 the portion in each municipality.

1 3. Compensation. Local representatives shall be
2 reimbursed only for expenses as regular board members
3 during the period of their service, to be paid by the
4 board.'

5 Further amend the bill in section 8 by striking
6 out all of the last line (page 6, line 7 in L.D.) and
7 inserting in its place the following: 'operation of
8 facilities for the storage of pesticides for wholesale
9 and retail purposes for longer than 60 days. The
10 board may also establish, by rule, minimum quantities
11 to be regulated.'

12 Further amend the bill by renumbering the sections
13 to read consecutively.

14 Further amend the bill by inserting at the end
15 before the statement of fact the following:

16 'FISCAL NOTE

17 It is anticipated that any costs associated with
18 compensation for local representatives would be
19 absorbed by the Board of Pesticide Control using
20 existing resources.'

21 STATEMENT OF FACT

22 This amendment reemphasizes in sections 1 and 7
23 that this bill is not intended to affect municipal
24 authority to enact ordinances.

25 The amendment still requires no-spray agreements
26 to be offered, but leaves the conditions of the
27 agreements to be negotiated between the municipality
28 and the public utility or the Department of
29 Transportation. Those conditions must be reasonable,
30 and may include such items as the responsibilities of
31 each, the allocation of costs and the remedies in the
32 case of default. Because public utilities and the
33 Department of Transportation have a responsibility to

COMMITTEE AMENDMENT "A" to H.P. 1557, L.D. 2121

1 maintain their rights-of-way, when an agreement is not
2 reached or if the municipality fails to carry out
3 agreed-upon maintenance work, the utility or the
4 department, may apply pesticides or use other methods
5 to control the vegetation, after giving the
6 municipality 90 days to reach agreement or to carry
7 out its duties under an agreement.

8 The amendment deletes a provision on chemical
9 substance identification that is addressed in another
10 bill, H.P. 1515, L.D. 2068, "AN ACT to Assist
11 Agricultural Employers in Complying with Federal
12 Hazard Communication Rules."

13 The amendment still allows for local participation
14 on the Board of Pesticides Control in designation and
15 establishment of a management plan for a critical
16 area, but it clarifies that only a single local
17 representative may participate in any particular board
18 action. If a proposed critical area encompasses more
19 than one community, the board will take separate
20 action on each portion.

21 The amendment clarifies that the new requirement
22 for the board to develop rules for pesticide storage
23 facilities applies to wholesale and resale facilities,
24 not to farms.

25 The amendment adds expenses, but not per diem, for
26 the local members assigned to the board for
27 consideration of a critical area in a locality. Since
28 only a few months of the biennium will remain after
29 rules are promulgated for critical areas, these
30 expenses are expected to be minimal and can be
31 absorbed.

32

5070032288