

MAINE STATE LEGISLATURE

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S
R. of S

1 L.D. 2521
2 (Filing No. S- 404)

3 STATE OF MAINE
4 SENATE
5 113TH LEGISLATURE
6 SECOND REGULAR SESSION

7 COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521,
8 Bill, "AN ACT to Correct Errors and Inconsistencies in
9 the Laws of Maine."

10 Amend the bill by inserting after the enacting
11 clause the following:

12 'PART A'

13 Further amend the bill in section 1 in paragraph A
14 in subparagraph (2) in the last line (page 2, line 34
15 in L.D.) by striking out the underlined word "desired"
16 and inserting in its place the following: 'that person
17 desires'

18 Further amend the bill in section 13 in the last
19 line (page 9, line 28 in L.D.) by striking out the
20 stricken out word and figure "chapter 101" and
21 inserting in its place the following: 'former chapter
22 101 or'

23 Further amend the bill in section 14 in the 3rd
24 line (page 9, line 31 in L.D.) by inserting after the
25 following: "enacted by PL" the following: '1987, c.'

26 Further amend the bill by striking out all of
27 section 15.

28 Further amend the bill in section 20 in subsection
29 10 in paragraph A in the 6th line (page 11, line 14 in

COMMITTEE AMENDMENT "A" to S.P. 950, L.D. 2521

1 L.D.) by striking out the following: "State
2 Development Office" and inserting in its place the
3 following: 'Department of Economic and Community
4 Development'

5 Further amend the bill in section 34 in the first
6 paragraph in the 19th and 20th lines from the end
7 (page 21, lines 35 and 36 in L.D.) by striking out the
8 following: "a designee" and inserting in its place the
9 following: 'the commissioner's designee'

10 Further amend the bill in section 40 in that part
11 designated "§6-103." in the first paragraph in the
12 first line (page 24, line 13 in L.D.) by striking out
13 the underlined word "bureau" and inserting in its
14 place the underlined word 'Bureau'

15 Further amend the bill by striking out all of
16 sections 48, 51, 60, 102, 103, 123, 124, 125 and 126.

17 Further amend the bill in section 147 in the
18 amending clause in the 2nd line (page 78, line 10 in
19 L.D.) by inserting after the word "enacted" the word
20 'by'

21 Further amend the bill by striking out all of
22 sections 148 and 149 and inserting in their place the
23 following:

24 'Sec. 148. 35-A MRSA §3133, sub-§9, as enacted
25 by PL 1987, c. 387, §3, and c. 490, Pt. B, §4, is
26 repealed and the following enacted in its place:

27 9. Imported power. In its review of any petition
28 filed on or after January 1, 1987, for approval of the
29 purchase of generating capacity or energy from outside
30 the State, the commission may consider the comparative
31 economic impact on the State of production of
32 additional power within the State, investments in
33 energy conservation and the purchase of the power from
34 outside the State.

35 Sec. 149. 35-A MRSA §3133, sub-§10 is enacted
36 to read:

37 10. Renewal of contracts for purchase or
38 conversion. This section applies to any amendment,

2 of 8

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 extension or renewal of any contract between the
2 utility and other parties governing the terms of their
3 participation in a purchase or conversion subject to
4 this section, for which the original contract was
5 subject to approval by the commission.

6 A. The commission may waive the approval
7 requirements of this section with respect to a
8 particular amendment, extension or renewal or a
9 group of amendments, extensions or renewals upon
10 request by the utility. The commission may also
11 wave the 2-month notice required in subsection
12 2. If the commission does not respond to a
13 request for waiver within 30 days, the request
14 shall be deemed to have been granted. The
15 commission shall prescribe by rule the content of
16 a request for waiver and procedures for the
17 expeditious processing of the request in certain
18 circumstances.

19 B. For any amendment, extension or renewal of any
20 contract otherwise subject to this section for
21 which the original contract was not subject to
22 approval by the commission, the utility shall file
23 a copy of the proposed amendment, extension or
24 renewal with the commission within 7 days of the
25 day when the utility receives notice of the
26 proposal, but approval under this section is not
27 required.'

28 Further amend the bill in section 161 by striking
29 out all of subsection 6 and inserting in its place the
30 following:

31 '6. Railroads. Vehicles owned by railroad
32 companies subject to the excise tax imposed in chapter
33 361.'

34 Further amend the bill in section 167 by striking
35 out all of subsection 11 and inserting in its place
36 the following:

37 '11. Other terms. Any other terms used in this
38 Part have the same meaning as when used in a
39 comparable context in the laws of the United States
40 relating to federal income taxes, unless different
41 meanings are clearly required.'

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 Further amend the bill by striking out all of
2 sections 168 and 172.

3 Further amend the bill by striking out all of
4 sections 190, 191 and 192 and inserting in their place
5 the following:

6 'Sec. 190. 38 MRSA §610-A is enacted to read:

7 §610-A. Hexavalent chromium particulate emission
8 standard

9 1. Scope. This regulation shall be effective in
10 all ambient air quality control regions in the State.

11 2. Definition. A potential source of hexavalent
12 chromium air emissions shall be defined as follows:
13 Any fuel burning equipment, incinerator or general
14 process source which handles material containing total
15 aggregate chromium concentration in excess of 0.05%,
16 or 500 parts per million, by weight.

17 3. Emission standards. The emission standards
18 for any potential source of hexavalent chromium air
19 emission shall represent the lowest emission rate for
20 hexavalent chromium which is technologically
21 achievable. The emission standards shall be decided
22 on a case-by-case basis, with the following conditions
23 representing the minimum requirements:

24 A. Any potential source of hexavalent chromium
25 air emissions shall demonstrate compliance with
26 the ambient air quality standards;

27 B. If a source cannot demonstrate to the
28 satisfaction of the commissioner a technique for
29 measuring hexavalent chromium at the emission
30 source, its modeled air quality impact shall be
31 derived from its total chromium emissions and
32 shall not exceed a 24-hour ambient concentration
33 of 25 nanograms per cubic meter; and

34 C. The modeled impact derived from hexavalent
35 chromium emissions shall not exceed the limits
36 specified in section 584-A, subsection 8,
37 paragraph B, subparagraph (1).

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 4. Exemptions. Chromium emissions resulting from
2 processes, including leather processing, in which
3 chromium is present only in the trivalent oxidation
4 state; from metal plating operations; and from the
5 preparation of chrome tanning liquors shall not be
6 subject to these emission requirements.

7 Sec. 191. 38 MRSA §611, as enacted by PL 1954,
8 c. 180, §35 and as amended by PL 1985, c. 746, §28, is
9 repealed and the following enacted in its place:

10 §611 Owner or mortgagee in possession liable for
11 acts of tenants

12 The owner or mortgagee in possession, as well as
13 any tenant, of any mill used for manufacturing lumber
14 is liable for the acts of the tenant in unlawfully
15 obstructing or diverting the water of any river or
16 stream by the slabs or other mill waste from that
17 mill, but no action may be maintained without a demand
18 of damages, at least 30 days prior to its
19 commencement. Such an unlawful obstruction or
20 diversion by the tenant shall terminate, at the
21 election of the owner or mortgagee and on written
22 notice to the tenant, the tenancy.'

23 Further amend the bill by striking out all of
24 sections 208 and 209.

25 Further amend the bill in section 210 by striking
26 out all of the first paragraph (page 103, lines 29 to
27 32 in L.D.) and inserting in its place the following:

28 'The Bureau of Civil Emergency Preparedness Maine
29 Emergency Management Agency shall submit a report to
30 the Joint Standing Committee on Human Resources, no
31 later than January 15, 1988.'

32 Further amend the bill by inserting before the
33 emergency clause the following:

34 'PART B

35 Sec. 1. 1 MRSA §151, 2nd ¶, as amended by PL
36 1979, c. 541, Pt. A, §1, is further amended to read:

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 At 2 o'clock antemeridian of the ~~last~~ first
2 Sunday in April of each year, the standard time in
3 this State shall be advanced one hour, and at 2
4 o'clock antemeridian of the last Sunday in October of
5 each year the standard time in this State, by the
6 retarding of one hour, shall be made to coincide with
7 the mean astronomical time of the degree of longitude
8 governing the zone wherein the State is situated, the
9 standard official time of which is described as United
10 States Eastern Standard Time, so that between the
11 ~~last~~ first Sunday of April at 2 o'clock antemeridian
12 and ~~the~~ last Sunday in October at 2 o'clock
13 antemeridian in each year the standard time in this
14 State shall be one hour in advance of the United
15 States Eastern Standard Time and said time shall be
16 known as "Eastern Daylight Time."

17 Sec. 2. 4 MRSA §120 as enacted by PL 1987, c.
18 577, is repealed and the following enacted in its
19 place:

20 §120. Justice of the Superior Court to sit in
21 District Court

22 The Chief Justice of the Supreme Judicial Court
23 may assign a Justice of the Superior Court who had
24 been serving as a Judge of the District Court and who
25 has been nominated and confirmed as a Justice of the
26 Superior Court to sit in the District Court in order
27 to finish any cases which he had presided over as a
28 Judge of the District Court and which remain
29 unresolved after his confirmation.

30 When so assigned, the justice has the same
31 authority and jurisdiction in the District Court as a
32 regular Judge of the District Court. The assigned
33 justice may hear all matters and issue all orders,
34 notices, decrees and judgments that any Judge of the
35 District Court may hear and issue.

36 The order of the Chief Justice of the Supreme
37 Judicial Court directing a Justice of the Superior
38 Court to sit in the District Court shall be filed with
39 the Executive Clerk of the Supreme Judicial Court, but
40 need not be docketed or otherwise recorded in any case
41 heard by the assigned justice.

R. of S.

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 Sec. 3. 17-A MRSA §1152, sub-§3, 1C, as
2 repealed and replaced by PL 1987, c. 157, §1, is
3 amended to read:

4 C. A fine as authorized by chapter 53. Subject
5 to the limitations of section 1302, such a fine
6 may be imposed in addition to the sentencing
7 alternatives alternative in paragraphs B and
8 paragraph D; or

9 Sec. 4. 17-A MRSA §1304, sub-§1, as enacted by
10 PL 1975, c. 499, §1, is amended to read:

11 1. When a convicted person sentenced to pay a
12 fine defaults in the payment thereof of the fine or
13 of any installment, the court, upon the motion of the
14 official to whom the money is payable, as provided in
15 section 1303, or upon its own motion, may require
16 him that person to show cause why he that person
17 should not be sentenced to be imprisoned committed
18 to the custody of the sheriff for nonpayment and may
19 issue a summons or a warrant of arrest for his that
20 person's appearance. Unless such person shows that
21 his the default was not attributable to a wifful
22 willful refusal to obey the order of the court or to a
23 failure on his that person's part to make a good
24 faith effort to obtain the funds required for the
25 payment, the court shall find that his the default
26 was unexcused and may order that person imprisoned
27 commit that person to the custody of the sheriff until
28 the fine or a specified part thereof of the fine is
29 paid. The term of imprisonment length of
30 incarceration for such unexcused nonpayment of the
31 fine shall be specified in the court's order and shall
32 not exceed one day for each \$5 of the fine or 6
33 months, whichever is the shorter. When a fine is
34 imposed on an organization, it is the duty of the
35 person or persons authorized to make disbursements
36 from the assets of the organization to pay it from
37 such assets and failure so to do may be punishabie
38 under subject every such person to court action
39 pursuant to this section. A person imprisoned
40 committed for nonpayment of a fine shall be given
41 credit towards its payment for each day after
42 commitment that he the person is in the
43 custody of the department, at the rate specified in
44 the court's order. He The person shall also

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 be given credit for each day that he the person has
2 been detained as a result of an arrest warrant issued
3 pursuant to this section.

4 Sec. 5. 24-A MRSA §4435, sub-§6, as amended by
5 PL 1979, c. 658, §3, is further amended to read:

6 6. Member insurer. "Member insurer" means any
7 authorized insurer which writes any kind of insurance
8 to which this subchapter applies ~~and any group~~
9 ~~self-insurer-as-defined-in-Title-39,-section-23.~~

10 Sec. 6. 25 MRSA §2902, sub-§4, as amended by PL
11 1987, c. 251, §3, and c. 411, §2, is repealed and the
12 following is enacted in its place:

13 4. Maine Highway Safety Commission. The Maine
14 Highway Safety Commission, as authorized by Title 5,
15 section 12004, subsection 10, shall be under the
16 direction of the Commissioner of Public Safety and
17 advisory to the Governor. The commission shall
18 consist of not more than 25 members selected by the
19 Governor from state, civic and industrial
20 organizations and individuals with interests relating
21 to highway safety. The Commissioner of Public Safety,
22 the Commissioner of Transportation, the Commissioner
23 of Human Services and the Commissioner of Educational
24 and Cultural Services, the Secretary of State and the
25 Attorney General shall serve as ex officio members.
26 The ex officio members shall appoint persons in major
27 policy-influencing positions as their designees to
28 represent them at meetings of the commission with
29 voting privileges. The commission members shall serve
30 at the pleasure of the Governor and shall be
31 compensated in accordance with Title 5, chapter 379.
32 The commission shall stimulate active support for
33 highway safety measures and programs and shall advise
34 the Department of Public Safety regarding these
35 issues. The commission shall annually report its
36 findings and recommendations, including any necessary
37 implementing legislation, to the Governor and to the
38 joint standing committee of the Legislature having
39 jurisdiction over state and local government; and

40 Sec. 7. 26 MRSA §2103, sub-§5, as enacted by PL
41 1987, c. 356, is amended to read:

H. of S.

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 5. Foot protection. All firefighters' boots must
2 have a puncture resistant, slip resistant sole.
3 Purchases of new boots by fire departments must meet
4 or exceed the American National Standards Institute
5 ~~#89-i~~ standard Z41.1 and 29 Code of Federal
6 Regulations, Part 1910, General Industry Standards of
7 the Occupational Safety and Health Administration.

8 Sec. 8. 38 MRSA §419-A, sub-§1, ¶B, as enacted
9 by PL 1987, c. 474, is amended to read:

10 B. "Antifouling paint" means a compound,
11 counting coating, paint or treatment applied or
12 used for the purpose of controlling freshwater or
13 marine fouling organisms on vessels.

14 Sec. 9. 38 MRSA §1493, first paragraph, as
15 enacted by IB 1985, c. 1, is amended to read:

16 No low-level radioactive waste disposal or storage
17 facility may be constructed or operated within the
18 State of Maine unless such construction and operation
19 are approved by a majority of the voters voting
20 thereon in a statewide election. Such election shall
21 be held in the manner prescribed by law for holding a
22 statewide election and in accordance with the
23 procedures set forth in Title 35, section 3382
24 35-A, section 4302. The voters shall be asked to vote
25 on the acceptance or rejection of construction or
26 operation by voting on the following question:

27 "Do you approve (insert construction or operation) of
28 a low-level radioactive waste (insert disposal or
29 storage) facility as proposed for (insert location)?"

30 Sec. 10. 38 MRSA §1494, first paragraph, as
31 enacted by IB 1985, c. 1, is amended to read:

32 The State of Maine shall not enter into any
33 compact or agreement with any other state or states or
34 with the Federal Government concerning the disposal or
35 storage of low-level radioactive waste either within
36 or without the State unless the compact or agreement
37 has been approved by a majority of the voters voting
38 thereon in a statewide election. Such election shall
39 be held in the manner prescribed by law for holding a
40 statewide election and in accordance with the

COMMITTEE AMENDMENT "A" to S.P. 950, L.D. 2521

1 procedures set forth in Title 35, section 3382
2 35-A, section 4302. The voters shall be asked to vote
3 on the acceptance or rejection of the compact or
4 agreement by voting on the following question:

5 "Do you approve of the (insert compact or agreement)
6 for the (insert disposal or storage) of low-level
7 radioactive waste proposed to be made with (insert
8 name of state or states or "the Federal Government")?"

9 Further amend the bill by renumbering the sections
10 in Part A to read consecutively.

11 STATEMENT OF FACT

12 Part A, section 1 of the bill is amended to
13 clarify the use of gender-neutral language in a
14 subparagraph permitting a person being charged or
15 investigated by a public body or agency to be present
16 at any executive session.

17 Part A, section 13 of the bill amends a provision
18 concerning state retirement funds being removed from
19 investments in South Africa. The amendment makes it
20 clear that retirement funds created under the old
21 retirement statutes, the Maine Revised Statutes, Title
22 5, chapter 101, and under the new retirement law of
23 the Maine Revised Statutes, Title 5, Part 20, are
24 covered.

25 Part A, section 14 is amended to correct a
26 citation in the repealing clause.

27 Section 15 is deleted because it is being
28 considered by another legislative committee.

29 Part A, section 20 is amended to replace a
30 reference to the abolished State Development Office
31 with a reference to the newly-created Department of
32 Economic and Community Development.

33 Part A, section 34 clarifies the use of
34 gender-neutral language in a provision concerning a
35 designee of the Commissioner of Human Services serving
36 on the Committee to Advise the Department of Human
37 Services on AIDS.

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 Part A, section 40 is amended to capitalize the
2 first letter of the word "bureau."

3 Sections 48 and 51 are deleted because, in
4 attempting to resolve a conflict between 2 public
5 laws, a policy choice must be made concerning the
6 authority to appoint a coordinator of lifeguard
7 training in the Bureau of Parks and Recreation.

8 Section 60 is deleted because the change of
9 reference from "district attorney" to "prosecutor"
10 would constitute a substantive change, since
11 "prosecutor" encompasses the Attorney General's Office.

12 Sections 102 and 103 are deleted because the
13 proposed changes are being considered by another
14 legislative committee.

15 Sections 123 to 126 are deleted because they amend
16 Title 30, which is being recodified in another bill.

17 Part A, section 147 is amended to correct the
18 amending clause.

19 Part A, sections 148 and 149 are amended simply to
20 reorder the sequence of the 2 subsections enacted.
21 This reordering will prevent a conflict with other
22 legislation.

23 Part A, section 161 resolves a conflict between 2
24 public laws, but is amended to delete a reference to a
25 telecommunications vehicle excise tax that has been
26 repealed.

27 Part A, section 167 resolves a conflict between 2
28 public laws, but is amended to delete a reference to
29 the United States Internal Revenue Code of 1986 that
30 is no longer applicable.

31 Sections 168 and 172 are deleted because the
32 corrections are being made in another bill.

33 Part A, sections 190, 191 and 192 are revised
34 because the proposed resolution of a conflict in
35 section numbering will place a section concerning
36 lumber mill obstruction of streams into a chapter

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 entitled "Protection and Improvement of Air." This
2 revision places the section in the chapter entitled
3 "General Provisions Relating to Rivers and Streams."

4 Section 208 is deleted because the proposed
5 correction of an effective date is moot.

6 Section 209 is deleted because the correction is
7 being made in another bill.

8 Part A, section 210 is amended to reflect the
9 change of the Bureau of Civil Emergency Preparedness
10 to the Maine Emergency Management Agency.

11 Part B of this amendment adds new sections to the
12 bill.

13 Part B, section 1 amends the state law providing
14 for the turning of clocks ahead for daylight savings
15 time to coincide with the federal law.

16 Part B, section 2 clarifies the authority of the
17 Chief Justice of the Supreme Judicial Court to assign
18 Superior Court Justices to sit in District Court.

19 Part B, section 3 amends a paragraph of the Maine
20 Criminal Code concerning fines imposed on
21 organizations to delete an incorrect cross-reference.

22 Part B, section 4 alters language concerning
23 defaults in the payment of criminal fines to make it
24 clear that imprisonment upon default is not an
25 additional sentence or a sentence for another crime;
26 rather, it is a form of original punishment which also
27 serves as incentive for the person to pay the fine.

28 Part B, section 5 deletes a clause from the
29 insurance laws concerning a general guarantee
30 association. The clause refers to group insurers of
31 workers' compensation, which are part of the Maine
32 Self-Insurance Guarantee Association, (see Title 39,
33 section 23-A) not part of the more general guarantee
34 association in Title 24-A.

35 Part B, section 6 resolves a conflict between 2
36 public laws that amended a subsection concerning the
37 Maine Highway Safety Commission.

R. of S.

COMMITTEE AMENDMENT " A " to S.P. 950, L.D. 2521

1 Part B, section 7 corrects the reference to the
2 American National Standards Institute standard for
3 boots for firefighters. The standard originally
4 listed refers to hardhats rather than boots.

5 Part B, section 8 corrects a misspelling in the
6 prohibition on the use of certain anti-fouling agents.

7 Part B, sections 9 and 10 correct a
8 cross-reference to Title 35 which has been recodified
9 as Title 35-A.

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Reported by Senator Black for the Committee on Judiciary
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