

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

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Legislative Document

No. 957

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S.P. 356

In Senate, March 28, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GILL of Cumberland.

Cosponsored by Representative HOGLUND of Portland, Representative PENDLETON of Scarborough and Senator BRANNIGAN of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act to Clarify the Regulation of Biomedical Waste.

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(EMERGENCY)





1 hazardous waste, in accordance with paragraph B, other  
3 substances in addition to those identified by the United  
States Environmental Protection Agency. Further, the  
5 Legislature intends that a substance which has been  
identified as a hazardous waste by the board shall be  
7 removed from identification only by further rulemaking  
rule-making by the board.

9 Hazardous waste may be identified as follows.

11 (1) The board may identify any substance as a  
13 hazardous waste if that substance is identified as  
15 hazardous by particular substance, by characteristic,  
by chemical class or as a waste product of a specific  
17 industrial activity in proposed or final rules of the  
United States Environmental Protection Agency.

19 (2) The board may identify any substance as a  
hazardous waste if the board, after evaluation based on  
21 existing data or data reasonably extrapolated from  
previously conducted studies using similar classes of  
23 substances or compounds under similar circumstances,  
has determined that the substance is an acute or  
25 chronic toxin causing significant potential adverse  
public health or environmental effects. An acute or  
chronic toxin may include the characteristics of:

- 27 (a) Carcinogenicity;  
29 (b) Mutagenicity;  
31 (c) Teratogenicity; or  
33 (d) Infectiousness.

35 Rules adopted under this subparagraph shall be  
37 submitted to the joint standing committee of the  
Legislature having jurisdiction over natural resources  
39 for review. These rules shall remain in effect until 90  
41 days after adjournment of the next regular session of  
the Legislature unless adopted by legislative  
43 enactment.

45 (3) Whenever the board proposes to adopt or amend  
rules identifying hazardous waste or removing hazardous  
47 waste from identification, it shall hold a public  
hearing.

49 (4) In addition to hazardous waste identified under  
subparagraphs (1) and (2), the Legislature identifies  
51 the following chemicals, materials, substances or waste  
as being hazardous waste:

1  
3 (a) Polychlorinated biphenyls and any substance  
containing polychlorinated biphenyls.

5 ~~(b) -- Pathogenic and infectious waste, -- as defined~~  
7 ~~by the department, -- by rule.~~

9 **Sec. 3. 38 MRSA §1319-O, sub-§3** is enacted to read:

11 3. Biomedical waste. Rule-making for biomedical waste  
shall be as follows.

13 A. The board may adopt rules relating to the packaging,  
15 labeling, handling, storage, collection, transportation,  
17 treatment and disposal of biomedical waste to protect public  
19 health, safety and welfare and the environment. The rules  
21 may include, without limitation, rules requiring the  
23 registration of biomedical waste generators; the handling of  
25 biomedical waste by generators; the licensing of biomedical  
27 waste transporters and the conveyances used for the  
transportation of biomedical waste; the implementation of a  
biomedical waste tracking or manifest system; and the  
establishment of treatment and disposal standards. The  
board may adopt rules governing the siting, licensing,  
operational and record keeping requirements for biomedical  
waste treatment, storage and disposal facilities. The board  
may also require evidence of financial capacity and may  
assess licensing fees.

29 **Emergency clause.** In view of the emergency cited in the  
31 preamble, this Act shall take effect when approved.

33  
35 **STATEMENT OF FACT**

37 This bill clarifies the regulation of biomedical waste. It  
39 was the intent of the Legislature to have the Department of  
41 Environmental Protection, DEP, determine which pathogenic and  
43 infectious wastes ought to be managed as hazardous waste. To  
this end the DEP convened a Medical Waste Task Force to assist  
the DEP in defining pathogenic and infectious waste and in  
determining appropriate handling and disposal requirements for  
the waste.

45 The DEP, in consultation with the task force, has determined  
47 that, with the exception of chemotherapeutic or antineoplastic  
49 drugs, the current regulatory structure governing the management  
of hazardous waste is not appropriate for the management of  
51 biomedical waste in that the hazardous waste management rules  
were developed to address chemical rather than biological  
materials. Since some biomedical wastes nevertheless pose a

1 hazard to public health, safety and welfare and the environment  
if improperly managed and since it was the intent of the  
3 Legislature that the wastes be regulated, this bill amends the  
rule-making authority under the Maine Revised Statutes, Title 38,  
5 section 1319-O, to create a separate rule-making authority for  
biomedical waste in recognition of the unique characteristics of  
7 these wastes.