

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)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1715, L.D. 2368, Bill, "An Act to Reduce Toxics in Packaging"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Sec. 1. 32 MRSA c. 26-A is enacted to read:

CHAPTER 26-A

REDUCTION OF TOXICS IN PACKAGING

§1731. Purpose

The purpose of this chapter is to reduce toxicity of packaging waste without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components. Under this chapter, reduction of the toxicity in packaging is accomplished by prohibiting the unnecessary addition of heavy metals, such as lead, mercury, cadmium and hexavalent chromium, in packaging and packaging components.

§1732. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agency. "Agency" means the Maine Waste Management Agency.

2. Distributor. "Distributor" means any person, firm or corporation that sells a packaged product to a retailer in this State or any person, firm or corporation that receives a shipment or consignment of, or in any other manner acquires, packaged products outside the State for sale to consumers in the State.

2 3. Manufacturer. "Manufacturer" means any person who
3 manufactures a package or packaging component.

4
5 4. Package. "Package" means a container used in marketing,
6 protecting or handling a product and includes a unit package and
7 a shipping container defined by the American Society for Testing
8 and Materials in its annual book of standards as ASTM, D996.
9 "Package" also includes such unsealed receptacles as carrying
10 cases, crates, cups, pails, rigid foil and other trays, wrappers
11 and wrapping films, bags and tubs.

12
13 5. Packaging component. "Packaging component" means any
14 individual part of an assembled package such as, but not limited
15 to, any interior or exterior blocking, bracing, cushioning,
16 weatherproofing, exterior strapping, coatings, closures, inks and
17 labels.

18
19 6. Supplier. "Supplier" means any person, firm or
20 corporation that sells packages or packaging components to a
21 distributor.

22 §1733. Prohibition; schedule for removal of incidental amounts

23
24 1. Prohibition of sale of packaging. A manufacturer,
25 supplier or distributor may not offer for sale or for promotional
26 purposes a package or packaging component that includes inks,
27 dyes, pigments, adhesives, stabilizers or any other additives to
28 which any lead, cadmium, mercury or hexavalent chromium has been
29 intentionally introduced during manufacturing or distribution.
30 This prohibition does not apply to the incidental presence of any
31 of these elements.

32
33 2. Prohibition of sale of product in packaging. A
34 manufacturer or distributor may not offer for sale or for
35 promotional purposes any product in a package that includes, in
36 the package itself or any packaging components, inks, dyes,
37 pigments, adhesives, stabilizers or any other additives to which
38 any lead, cadmium, mercury or hexavalent chromium has been
39 intentionally introduced during manufacturing or distribution.
40 This prohibition does not apply to the incidental presence of any
41 of these elements.

42
43 3. Concentration levels. The sum of the concentration
44 levels of lead, cadmium, mercury and hexavalent chromium present
45 in any package or packaging component may not exceed:

46
47 A. Effective April 1, 1992, 600 parts per million by
48 weight, or 0.06%;

49 B. Effective April 1, 1993, 250 parts per million by
50 weight, or 0.025%; and
51

2 C. Effective April 1, 1994, 100 parts per million by weight,
3 or 0.01%.

4 4. Substitute materials. No material used to replace lead,
5 cadmium, mercury or hexavalent chromium in a package or packaging
6 component may be used in a quantity or manner that creates a
7 hazard as great as or greater than the hazard created by the
8 lead, cadmium, mercury or hexavalent chromium.

10 **§1734. Exemptions**

12 All packages and packaging components are subject to the
13 provisions of section 1733 unless:

16 1. Manufactured prior to effective date. The package or
17 packaging component has a code indicating a date of manufacture
18 prior to the effective date of this section; or

20 2. Health and safety requirements; feasibility;
21 post-consumer materials. The manufacturer, supplier or
22 distributor petitions the agency for an exemption for a
23 particular package or packaging component and the agency grants
24 an exemption for one or more of the following reasons.

26 A. The package or packaging component contains lead,
27 cadmium, mercury or hexavalent chromium added in the
28 manufacturing, forming, printing or distribution process in
29 order to comply with health or safety requirements of state
30 or federal law.

32 B. There is no feasible alternative to the use of lead,
33 cadmium, mercury or hexavalent chromium in the package or
34 packaging component. For the purposes of this section, "no
35 feasible alternative" means a use in which the regulated
36 substance is essential to the protection, safe handling or
37 function of the package's contents.

38 C. The addition of post-consumer materials causes the
39 package or packaging component to exceed the maximum
40 concentration levels set forth in section 1733, subsection 3.

42 For packages or packaging components exempted under paragraph A
43 or B, a 2-year exemption may be granted and that exemption may be
44 renewed for an additional 2 years. An exemption granted under
45 paragraph C expires 4 years after the effective date of this
46 chapter.

48 **§1735. Certificate of compliance**

50 A certificate of compliance is a document developed by a
51 manufacturer and filed with the agency that attests that one or
52 more of the following conditions are met:

2 more packages or packaging components meets the standards
3 established in section 1733 or is exempt under the provisions of
4 section 1734. If compliance is achieved under the exemptions
5 provided in section 1734, the certificate must state the specific
6 basis upon which the exemption is claimed. A certificate of
7 compliance must be signed by an authorized official of the
8 manufacturer. A certificate of compliance may cover more than
9 one type of package or packaging component as long as they are
10 separately identified.

11 1. New or reformulated packaging. If the manufacturer
12 reformulates or creates a new package or packaging component, the
13 manufacturer shall provide the agency with an amended or new
14 certificate of compliance for the reformulated or new package or
15 packaging component.

16 2. Presentation of certificates. Each manufacturer shall
17 furnish the agency with an original certificate of compliance and
18 each manufacturer or supplier shall furnish, at the agency's
19 request, copies of a certificate of compliance for distribution
20 to the public.

21 **§1736. Enforcement and penalties**

22 1. Enforcement. The Department of Agriculture, Food and
23 Rural Resources shall enforce the provisions of this chapter and
24 may inspect, with the consent of the owner or agent, any property
25 or building to accomplish the objectives of this chapter.

26 2. Violation. Any manufacturer or supplier that violates
27 this chapter commits a civil violation for which a forfeiture of
28 not more than \$100 may be adjudged. Each package or packaging
29 component in violation constitutes the basis of a separate
30 offense.

31 **§1737. Rules**

32 The agency shall adopt rules implementing the provisions of
33 this chapter in consultation with the Department of Agriculture,
34 Food and Rural Resources. Rules must be adopted in accordance
35 with the Maine Administrative Procedure Act. No rule adopted
36 pursuant to this chapter may add or remove prohibitions on
37 packaging or packaging components.

38 **§1738. Public access**

39 A citizen of the State may request in writing from the
40 agency a copy of the certificate of compliance for a package or
41 packaging component found in use or for sale in the State.

§1739. Effective date

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46

This chapter takes effect April 1, 1992.

Sec. 2. Agency rulemaking; assistance. Prior to the effective date of the Maine Revised Statutes, Title 32, chapter 26-A, the Maine Waste Management Agency may adopt rules necessary to implement the provisions of this Act. The agency shall assist manufacturers and others that wish to comply with Title 32, section 1733, prior to its effective date.

Sec. 3. State review. The Maine Waste Management Agency shall, in consultation with the Source Reduction Council of the Coalition of Northeast Governors, review the effectiveness of the Maine Revised Statutes, Title 32, chapter 26-A, and shall develop a report based on that review. The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in that chapter in order to further reduce the toxicity of packaging waste, and must contain recommendations whether to continue the recycling exemption provided in Title 32, section 1734, subsection 2, paragraph 3 and describe the nature of the elements used in lieu of lead, mercury, cadmium and hexavalent chromium. The agency shall issue its recommendations in a report submitted to the Governor and the Office of the Executive Director of the Legislative Council for transmittal to the Joint Standing Committee on Energy and Natural Resources by December 1, 1992.'

Further amend the bill by inserting after the emergency clause and before the statement of fact the following:

FISCAL NOTE

This bill will result in:

1. The Department of Agriculture, Food and Rural Resources absorbing all costs associated with the enforcement of the proposed provisions;
2. The Maine Waste Management Agency absorbing the expected costs for the adoption of rules and the proposed reporting requirement; and
3. The Judicial Department absorbing any costs associated with a potential increase in court cases.'

STATEMENT OF FACT

2

This amendment deletes the bill and presents a redraft of the bill's provisions to reduce lead, mercury, cadmium and hexavalent chromium in packaging or packaging materials used or sold within the State.

4

6

8

Under the amendment's provisions, manufacturers and suppliers of packaging or packaging materials are required to reduce the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium to 600 parts per million by April 1, 1992; 250 parts per million by April 1, 1993; and 100 parts per million by April 1, 1994.

10

12

14

An exemption process is provided for packaging made from recycled materials and for packaging that is essential to the protection, safe handling or function of the package's contents.

16

18

Certificates of compliance for packages and packaging components will be filed by manufacturers with the Maine Waste Management Agency. The agency will provide public access to packaging information by providing copies of the certificates of compliance. The Department of Agriculture, Food and Rural Resources will enforce the provisions of the law.

20

22

24

The amendment also provides for a review process by the Maine Waste Management Agency to determine the effectiveness of the law. A 1993 report to the Governor and the Legislature will contain agency recommendations on continuation of the exemption for packaging made of recycled materials and the possible prohibition of other toxic substances used in packaging.

26

28

30

Reported by the Committee on Energy and Natural Resources
Reproduced and distributed under the direction of the Clerk of the
House
3/28/90

(Filing No. H-1020)