

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1735, L.D. 2394, Bill, "An Act to Clarify the Process by Which the Board of Environmental Protection Regulates the Discharge of Toxic Substances to the State's Surface Waters"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Regulate and Monitor the Discharge of Toxic Substances into the State's Waters'

Further amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 38 MRSA §420, sub-§2, ¶¶A to G are enacted to read:

A. Except as naturally occurs or as provided in paragraphs B and C, the board shall regulate toxic substances in the surface waters of the State at the levels set forth in federal water quality criteria as established by the United States Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended.

B. The board may change the statewide criteria established under paragraph A for a particular toxic substance established pursuant to the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended, as follows:

(1) By adopting site-specific numerical criteria for the toxic substance to reflect site-specific circumstances different from those used in, or any not considered in, the derivation of the statewide criteria. The board shall adopt site-specific numerical criteria only as part of a licensing proceeding pursuant to sections 413, 414 and 414-A; or

2 (2) By adopting alternative statewide criteria for the
3 toxic substance. The alternative statewide criteria
4 must be adopted by rule.

5 The board may substitute site-specific criteria or
6 alternative statewide criteria for the criteria established
7 in paragraph A only upon a finding that the site-specific
8 criteria or alternative statewide criteria are based on
9 sound scientific rationale and are protective of the most
10 sensitive designated use of the water body, including, but
11 not limited to, human consumption of fish and drinking water
12 supply after treatment.

13 C. When surface water quality standards are not being met
14 due to the presence of a toxic substance for which no water
15 quality criteria have been established pursuant to the
16 Federal Water Pollution Control Act, Section 304(a), as
17 amended, the board shall:

18 (1) Adopt statewide numerical criteria by rule; or

19 (2) Adopt site-specific numerical criteria as part of
20 a licensing proceeding under sections 413, 414 and
21 414-A.

22 Nothing in this section restricts the authority of the board
23 to adopt, by rule, statewide or site-specific numerical
24 criteria for toxic substances that are not presently causing
25 water quality standards to be violated.

26 D. For any criteria established under this subsection, the
27 board shall establish the acceptable level of additional
28 risk of cancer to be borne by the affected population from
29 exposure to the toxic substance believed to be carcinogenic.

30 E. In regulating substances that are toxic to humans,
31 including any rulemaking to regulate these substances, the
32 board shall consider any information provided by the
33 Department of Human Services.

34 F. The Department of Human Services may request that the
35 board adopt or revise the statewide or site-specific
36 criteria for any toxic substance based on the need to
37 protect public health. If the request is filed with the
38 board, the board may propose a rule and initiate a
39 rule-making proceeding. The board shall incorporate in its
40 proposal for rulemaking under this paragraph the statewide
41 or site-specific criteria recommended by the Department of
42 Human Services.

43 G. Numeric water quality criteria for 2, 3, 7, 8 -
44 tetrachlorodibenzo-p-dioxin established by the United States

2 Environmental Protection Agency under the Federal Water
3 Pollution Control Act, Public Law 92-500, Section 304(a), as
4 amended, do not apply until June 1, 1991, and only apply on
5 that date if the board has not adopted through rulemaking or
6 individual licensing proceedings under this section
7 alternative numeric water quality criteria for 2, 3, 7, 8 -
8 tetrachlorodibenzo-p-dioxin. Pursuant to section 414-A,
9 subsection 2, the board shall establish schedules for
10 compliance with criteria established under this section.
11 These schedules must be consistent with the compliance
12 deadlines established under the Federal Water Pollution
13 Control Act, Public Law 92-500, Section 304(l), as amended.'

14 Further amend the bill by inserting after section 2 the
15 following:

16 'Sec. 3. 38 MRSA §420-A, first ¶, as enacted by PL 1987, c.
17 762, §1, is amended to read:

18
19 In order to determine the nature of dioxin contamination in
20 the waters and fisheries of the State, the department shall
21 conduct a one-year monitoring program as described in this
22 section.

23
24 Sec. 4. 38 MRSA §420-A, sub-§4, as enacted by PL 1987, c. 762,
25 §1, is amended to read:

26
27 4. Report. The department shall report by December 1,
28 1990, and annually thereafter on December 1st, on the results of
29 the monitoring program to the joint standing committee of the
30 Legislature having jurisdiction over natural resources. The
31 final annual report shall must contain the department's
32 conclusions as to the levels of dioxin contamination in the
33 sample subjects and the likely scope of dioxin contamination in
34 the State's waters.

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36 Sec. 5. 38 MRSA §420-A, sub-§6 is enacted to read:

37
38 6. Repeal. This section is repealed on December 31, 1995.'

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40 Further amend the bill by inserting after section 4 the
41 following:

42
43 'Sec. 5. Allocation. The following funds are allocated from
44 the Maine Environmental Protection Fund to carry out the purposes
45 of this Act.

2

1990-91

4

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

6

Maine Environmental Protection Fund

8

All Other

\$168,000

10

Provides funds for the contractual laboratory sampling and analysis services.'

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

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

18

FISCAL NOTE

20

1990-91

22

Revenue

24

Maine Environmental Protection Fund

\$168,000

26

Allocations

28

Maine Environmental Protection Fund

\$168,000

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This bill will result in an increase in dedicated revenue and an allocation in the amount of \$168,000 for fiscal year 1990-91. These estimates are based on the expected collection of funds from the dischargers under the Maine Revised Statutes, Title 38, section 420-A, and the expenditure for laboratory analysis of 12 sites, 14 samples per site, at a cost of approximately \$1,000 per test.'

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STATEMENT OF FACT

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This amendment revises the procedures for establishing water quality standards for toxic substances. The amendment also extends the existing dioxin monitoring program until 1995.

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