

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 258, L.D. 349, Bill, "An Act to Protect the Public from Unsafe Industrial and Commercial Facilities"

Amend the bill by inserting at the beginning of the first line after the enacting clause the following: 'Sec. 1.'

Further amend the bill in that part designated "~~§811.~~" by striking out all of subsection 3 (page 1, lines 20 to 25 in L.D.) and inserting in its place the following:

'3. Hazardous equipment. "Hazardous equipment" means a boiler or pressure vessel subject to Title 26, chapter 5, subchapter II.'

Further amend the bill in that part designated "~~§811.~~" by striking out all of subsection 4 (page 1, lines 27 to 30 in L.D.) and inserting in its place the following:

'4. Industrial facility. "Industrial facility" means a discrete, fixed location at which manufacturing operations are undertaken.'

Further amend the bill in that part designated "~~§811.~~" in subsection 5 in paragraph B in subparagraph (2) in the 2nd line (page 1, line 47 in L.D.) by striking out the following: "hazardous substances" and inserting in its place the following: 'toxic chemicals'

Further amend the bill in that part designated "~~§811.~~" in subsection 5 in paragraph C in subparagraph (2) in the 2nd line (page 2, line 12 in L.D.) by striking out the following: "hazardous substances" and inserting in its place the following: 'toxic chemicals'

2 Further amend the bill in that part designated "~~§811.~~" in
subsection 7 in the 3rd line (page 2, line 23 in L.D.) by
4 striking out the following: "hazardous substances" and inserting
in its place the following: 'toxic chemicals'

6 Further amend the bill in that part designated "~~§811.~~" in
subsection 8 in the 3rd and 4th lines (page 2, lines 29 and 30 in
8 L.D.) by striking out the following: "or commercial"

10 Further amend the bill in that part designated "~~§811.~~" by
inserting after subsection 8 the following:

12
14 '9. Toxic chemical. "Toxic chemical" means any extremely
hazardous substance or any toxic chemical in an amount requiring
a facility's identification under section 794, subsection 1,
16 paragraph A.'

18 Further amend the bill in that part designated "~~§812.~~" by
striking out all of subsection 1 (page 2, lines 34 to 38 in L.D.)
20 and inserting in its place the following:

22 '1. Operation prohibited. An industrial facility that has
over 100 full-time employees and where toxic chemicals or
24 hazardous equipment is present may not initiate or resume
operation except as provided in section 813.'

26
28 Further amend the bill in that part designated "~~§812.~~" in
subsection 2 in paragraph B in the 2nd line (page 3, line 7 in
L.D.) by striking out the following: "hazardous substances" and
30 inserting in its place the following: 'toxic chemicals'

32 Further amend the bill in that part designated "~~§813.~~" in
the first paragraph in the first line (page 3, line 16 in L.D.)
34 by striking out the following: "or commercial"

36 Further amend the bill in that part designated "~~§813.~~" by
striking out all of subsection 5 and inserting in its place the
38 following:

40 '5. Inspection; standards. The bureau shall have an
inspection of the facility conducted and shall consult with the
42 employees of the facility to determine if:

44 A. All toxic chemicals at the facility are stored, labeled
and transported in such a manner as to minimize any risk of
46 serious injury to persons and property located in the
vicinity of the facility;

48
50 B. All hazardous equipment at the facility complies with
Title 26, chapter 5, subchapter II;

52 C. All new employees of the facility who work with toxic

2 chemicals or hazardous equipment have received training to
3 perform their assigned tasks so as to minimize any risk of
4 serious injury to persons and property located in the
5 vicinity of the facility;

6 D. Any air or water pollution control equipment at the
7 facility does not create an imminent and substantial threat
8 to public health and the facility possesses all licenses
9 required from the Department of Environmental Protection.

10 (1) The facility is deemed to possess any required
11 license if the facility is operating under a consent
12 order, under a license continued by operation of law or
13 pursuant to other legal authorization; and

14 E. All new employees of the facility are aware of the toxic
15 chemicals or hazardous equipment present at the facility and
16 are knowledgeable regarding:

17 (1) The risk to the public created by the toxic
18 chemicals or hazardous equipment; and

19 (2) Their roles in any applicable emergency response
20 plan developed by the facility operator and the
21 applicable local emergency planning committee.

22 The bureau may adopt rules, as provided in section 812,
23 subsection 2, to further define these standards. These rules
24 must, whenever possible, incorporate standards established under
25 other state or federal laws when those standards serve to protect
26 persons and property located in the vicinity of an industrial
27 facility from serious injury.'

28 Further amend the bill in that part designated "~~§813.~~" in
29 subsection 6 in the 6th line (page 5, line 9 in L.D.) by striking
30 out the following: "hazardous substances" and inserting in its
31 place the following: 'toxic chemicals'

32 Further amend the bill in that part designated "~~§813.~~" in
33 subsection 6 in the 7th line (page 5, line 10 in L.D.) by
34 inserting after the following: "the facility" the following: 'or
35 when the facility requires licenses from the Department of
36 Environmental Protection'

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

39 '**Sec. 2. Appropriation.** The following funds are appropriated
40 from the General Fund to carry out the purposes of this Act.

2 facilities to cover the cost of the inspections. Allocations of
3 this additional dedicated revenue of \$185,626 in fiscal year
4 1991-92 and \$187,078 in fiscal year 1992-93 are required by the
5 Department of Labor to pay for the expense of staff time and
6 expert consultants who will be involved in the inspection and
7 certification process. The department will also require General
8 Fund appropriations of \$8,320 in fiscal year 1991-92 and \$6,670
9 in fiscal year 1992-93 for rule-making costs and to provide
10 specialized training to some staff who will be involved in the
11 inspection process.

12 The Department of the Attorney General can absorb the costs
13 associated with seeking equitable relief from Superior Court if
14 current staffing levels are not decreased. The Governor's
15 current services budget proposal recommends significant
16 reductions which will impact upon the Attorney General ability to
17 fulfill its task. This bill individually does not warrant
18 providing an additional appropriation. The required General's
19 Fund appropriation will depend on the cumulative effect of all
20 legislation affecting the Department of the Attorney General.

22 The additional work load and administrative costs associated
23 with a minimal number of new cases filed in Superior Court to
24 enforce the new requirements will be absorbed within the budgeted
25 resources of the Judicial Department. The collection of
26 additional civil penalties will increase General Fund revenues.'

28
29
30 **STATEMENT OF FACT**

31 This amendment makes the following changes to the bill.

32
33 1. It restricts the definition of "hazardous equipment" to
34 boiler or pressure vessels subject to regulation under the Maine
35 Revised Statutes, Title 26, chapter 5, subchapter II.

36
37 2. It replaces the term "hazardous substance" with "toxic
38 chemical" to retain consistency with similar references in other
39 laws.

40
41 3. It limits the application of the bill by eliminating
42 commercial establishments from the inspection requirements under
43 the bill. The amendment applies only to an industrial facility,
44 defined as a discrete, fixed location at which manufacturing
45 operations are undertaken.

46
47 4. It further restricts those facilities potentially
48 subject to the bill by increasing the threshold number of
49 employees from 50 to 100.
50

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2 5. It completely redrafts the inspection standards for
3 facilities subject to inspection under the bill. The amendment
4 attempts to tighten the descriptions of those standards to
5 provide greater guidance to the state agencies that will
6 administer the law and to facilities potentially subject to
7 inspections under the bill. The Department of Labor, Bureau of
8 Labor Standards is also required to incorporate, whenever
9 possible, existing standards from other state or federal laws, as
10 long as those standards serve to further the purpose of this bill
11 to protect the public, as opposed to the protection of employees
12 of the facility.

13 6. Finally, the amendment adds an appropriation, allocation
14 and fiscal note.

Reported by the Majority of the Committee on Labor
Reproduced and distributed under the direction of the Clerk of the
House
6/7/91 (Filing No. H-590)