

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 920, L.D. 1317, Bill, "An Act to Revise the Law Protecting Farmers' Rights to Farm"

Amend the bill by striking out all of section 1.

Further amend the bill by striking out all of section 3 and inserting in its place the following:

'Sec. 3. 17 MRSA §2805, sub-§§5 to 9 are enacted to read:

5. Complaint resolution. The commissioner shall investigate all complaints involving a farm or farm operation, including, but not limited to, complaints involving the use of waste products, ground and surface water pollution and insect infestations. If the commissioner finds upon investigation that the person responsible for the farm or farm operation is using best management practices, the commissioner shall notify that person and the complainant of this finding in writing. If the commissioner identifies the source or sources of the problem, has reason to believe that the source is a nuisance and finds that the nuisance is caused by the use of other than best management practices, the commissioner shall:

A. Determine the changes needed in the farm or farm operation to comply with best management practices;

B. Advise the person responsible for the farm or farm operation of the changes, as determined in paragraph A, that are necessary to conform with best management practices and determine subsequently if those changes are implemented; and

2 C. Give the findings of the initial investigation and
3 subsequent investigations and any determination of
4 compliance to the complainant and person responsible.

6 6. Failure to adopt best management practices. If the
7 person responsible for the farm or farm operation does not adopt
8 best management practices, the commissioner shall send a written
9 report to an appropriate agency if a federal or state law has
10 been violated and may refer the matter to the Attorney General.
11 The Attorney General may institute an action to abate a nuisance
12 and the court may order the abatement with costs as provided
13 under section 2702.

14 7. Costs associated with nuisance suits. In any private
15 nuisance action brought on the grounds that a farm or farm
16 operation is a nuisance, the court shall award a prevailing
17 defendant reasonable costs, expenses and attorney's fees.

18 8. Agricultural Complaint Response Fund. There is
19 established the nonlapsing Agricultural Complaint Response Fund.
20 The commissioner may accept funds from any source designated to
21 be placed in the fund. The commissioner may authorize expenses
22 from the fund as necessary to investigate complaints involving a
23 farm or farm operation and to abate conditions potentially
24 resulting from farms or farm operations.

25 9. Rules. The commissioner shall adopt rules in accordance
26 with the Maine Administrative Procedure Act to interpret and
27 implement this section.

28 **Sec. 4. Allocation.** The following funds are allocated from
29 Other Special Revenue to carry out the purposes of this Act.

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32
33
34 1991-92 1992-93

35 **AGRICULTURE, FOOD AND RURAL**
36 **RESOURCES, DEPARTMENT OF**

37 **Agricultural Complaint Response Fund**

38
39
40 All Other \$50,000 \$100,000

41
42 Provides funds for travel and
43 monitorial expenses and for
44 the cost of abating farming
45 conditions that initiated
46 complaint investigations.'

47
48
49 Further amend the bill by renumbering the sections to read
50 consecutively.

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

FISCAL NOTE

	1991-92	1992-93
APPROPRIATIONS/ALLOCATIONS		
Other Funds	\$50,000	\$100,000

REVENUES

Other Funds	\$50,000	\$100,000
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This bill establishes an Agricultural Complaint Response Fund to be administered by the Department of Agriculture, Food and Rural Resources, to be funded by dedicated revenue from any source. The additional dedicated revenue is estimated at \$50,000 in fiscal year 1991-92 and \$100,000 in fiscal year 1992-93. This bill also allocates these funds for travel and monitoring expenses as a result of investigating complaints involving farm operations.

The Department of the Attorney General can absorb the costs associated with instituting actions referred by the Commissioner of Agriculture, Food and Rural Resources within budgeted resources.'

STATEMENT OF FACT

This amendment strikes that section of the bill that established the Ground Water Contamination Fund and authorized the collection of fees from the sale of pesticides and fertilizers. In its place, the amendment establishes the Agricultural Complaint Response Fund. The Commissioner of Agriculture, Food and Rural Resources may accept money designated for this fund from any source and may authorize expenditures from the fund. The amendment also makes technical changes to conform to preferred statutory structure and adds a fiscal note to the bill.

Reported by the Committee on Agriculture
Reproduced and distributed under the direction of the Clerk of the House
(5/8/91) (Filing No. H-270)