

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1171, L.D. 1712, Bill, "An Act to Clarify Provisions of and Provide Funding for Toxics Use, Toxics Release and Hazardous Waste Reduction Programs"

Amend the bill by inserting after the enacting clause the following:

Sec. 1. 38 MRSA §342, sub-§4, ¶B is enacted to read:

B. The Office of Pollution Prevention is established within the department to review department programs and make recommendations to the commissioner on means of integrating pollution prevention into department programs. The Office of Pollution Prevention has the following functions:

(1) To establish pollution prevention priorities within the department;

(2) To coordinate department pollution prevention activities with those of other agencies and entities;

(3) To ensure that rules, programs and activities of the department are consistent with pollution prevention goals and do not hinder pollution prevention initiatives;

(4) To provide technical assistance, training and educational activities to assist the general public, governmental entities and the regulated community with development and implementation of pollution prevention programs as funds allow;

(5) To establish an award program to recognize businesses, local governments, department staff and

- 2 others that have implemented outstanding or innovative
pollution prevention programs, activities or methods;
- 4 (6) To identify opportunities to use the state
procurement system to encourage pollution prevention;
- 6 (7) To develop procedures to determine the
8 effectiveness of the department's pollution prevention
10 programs and activities; and
- 12 (8) To assume responsibility for the administration
and implementation of chapter 26.

14 Sec. 2. 38 MRSa c. 2, sub-c. IV is enacted to read:

16 SUBCHAPTER IV
18 MAINE POLLUTION PREVENTION FUND

20 §358. Maine Pollution Prevention Fund

22 1. Fund established. The Maine Pollution Prevention Fund,
referred to in this subchapter as the "fund," is established as a
24 nonlapsing fund administered by the commissioner for the purpose
of strengthening environmental protection in the State through
26 pollution prevention activities and methods. The money deposited
with the Treasurer of State to the credit of the fund may be
28 invested as provided by law. Interest on these investments is
credited to the fund.

30 2. Fund sources. The fund may receive money from the
32 following sources:

34 A. Contributions from other entities, both public and
private; and

36 B. Registration and associated fees for pollution
38 prevention workshops held by the commissioner.

40 3. Purposes. Money in the fund may be used to establish
and support pollution prevention programs and activities. This
42 fund may:

44 A. Support the Toxics Use, Toxics Release and Hazardous
Waste Reduction Program established under chapter 26; and

46 B. Support functions and activities of the Office of
48 Pollution Prevention as outlined in section 342, subsection
4.

50 Sec. 3. 38 MRSa §361-A, sub-§3-B is enacted to read:

52 3-B. Pollution prevention. "Pollution prevention " means

2 the application of the toxics use reduction principles and
3 reduction hierarchies, which are established in chapter 26, to
4 manufacturing, commercial and consumer chemical use and energy
5 production and consumption.'

6 Further amend the bill by inserting after section 1 the
7 following:

8
9 'Sec. 2. 38 MRSA §1319-I, sub-§2-A, as enacted by PL 1989, c.
10 929, §6, is amended to read:

11
12 2-A. Fees for noncompliance with reduction requirements.
13 Notwithstanding subsection 8, the commissioner may assess and a
14 generator as defined in chapter 26 not in compliance with chapter
15 26 must pay a fee as follows:

16
17 A. For hazardous waste that is transported off the site to
18 a licensed hazardous waste disposal facility for disposal,
19 18¢ a pound; and

20
21 B. For hazardous waste that is transported off the site to
22 a licensed hazardous waste treatment facility for treatment,
23 storage facility for storage or other licensed facility for
24 handling, including beneficial reuse, reclamation or
25 recycling, 13.5¢ a pound.'

26
27 Further amend the bill in section 6 in that part designated
28 "§2302." in subsection 2 in the 3rd line (page 2, line 50 in
29 L.D.) by inserting after the following: "in addition to" the
30 following: 'encouraging the'

31
32 Further amend the bill in section 6 in that part designated
33 "§2302." in subsection 3 in the 3rd line (page 3, line 16 in
34 L.D.) by inserting after the following: "addition to" the
35 following: 'any'

36
37 Further amend the bill in section 6 in that part designated
38 "§2302." in subsection 3 in the 3rd line (page 3, line 16 in
39 L.D.) by inserting after the following: "techniques" the
40 following: 'employed by the facility'

41
42 Further amend the bill in section 7 in subsection 1 in the
43 2nd line (page 3, line 35 in L.D.) by striking out the following:
44 "at a facility in 1992" and inserting in its place the following:
45 'statewide in 1990'

46
47 Further amend the bill in section 8 in subsection 2 in the
48 2nd line (page 3, line 44 in L.D.) by inserting after the
49 following: "facility in" the following: 'calendar years'

50
51 Further amend the bill in section 8 in subsection 2 in the
52 5th, 6th and 7th lines (page 3, lines 47 to 49 in L.D.) by

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striking out each occurrence of the following: "amount"

Further amend the bill in section 8 by striking out all of subsection 4 (page 4, lines 23 to 33 in L.D.) and inserting in its place the following:

'4. Establishment of unit of product. When tracking the percent reduction achieved by a facility, the Commissioner of Environmental Protection shall work with the Department of Labor to establish a uniform production unit measure for each standard industrial code to account accurately for changes in toxics use, toxics release and hazardous waste generation due to business growth or decline. When production units are not easily established, such as when a facility provides a service rather than a product, the commissioner and the Department of Labor shall work with industry representatives to establish an acceptable accounting method for business activity. A facility must establish its own unit of product to aid the department in accounting accurately for changes in toxics use, toxics release and hazardous waste generation due to business growth or decline. Once established and accepted by the commissioner, a facility's unit of product remains constant from year to year. If a facility changes its products or services so that use of the previously accepted unit of product no longer accurately accounts for toxics use, toxics release and hazardous waste reductions, the facility may petition the commissioner to change its unit of product. The commissioner may establish guidelines to aid facilities in the establishment of unit of product.'

Further amend the bill in section 8 in subsection 6 in the 2nd line (page 4, line 46 in L.D.) by striking out the following: "must" and inserting in its place the following: 'must should'

Further amend the bill in section 8 in subsection 6 in the 5th line (page 4, line 49 in L.D.) by striking out the following: "must" and inserting in its place the following: 'must may'

Further amend the bill in section 9 in that part designated "§2304." in subsection 1 by striking out all of paragraph A (page 5, lines 14 to 29 in L.D.) and inserting in its place the following:

'A. Owners and operators of facilities subject to reporting requirements for extremely hazardous substances under the SARA, Title III, Section 312 are not required to meet the toxics use reduction goals, but shall examine, plan and implement means of reducing the use of extremely hazardous substances within their facilities without impairing the quantity or quality of their products or services. For the purpose of developing reduction plans and reporting progress toward meeting reduction goals, a facility is required to examine only those extremely hazardous substances which the

2 facility is required to report under SARA, Title III,
3 Section 312. A facility is not required to examine toxics
4 use that is incidental to the facility's administrative
5 functions.'

6 Further amend the bill in section 9 in that part designated
7 "§2304." in subsection 2 by striking out all of paragraph A (page
8 5, lines 41 to 48 in L.D.) and inserting in its place the
9 following:

10 'A. Owners and operators of facilities required to report
11 under SARA, Title III, Section 313 are required to meet the
12 toxics release reduction goals. For the purpose of
13 developing reduction plans and meeting reduction goals,
14 "toxics" refers only to those substances which the facility
15 is required to report under SARA, Title III, Section 313.
16 The board may establish by rule reduction planning levels
17 other than the SARA reportable quantities for specific
18 toxics.'

19 Further amend the bill in section 9 in that part designated
20 "§2304." in subsection 3 in paragraph B in subparagraph (2) in
21 division (a) in subdivision (iii) in the last line (page 8, line
22 18 in L.D.) by inserting after the following: "quality" the
23 following: 'or quantity'

24 Further amend the bill in section 13 in subsection 1 in the
25 3rd line (page 10, line 27 in L.D.) by striking out the
26 following: "new or" and inserting in its place the following:
27 'new-or'

28 Further amend the bill in section 13 in subsection 2 in the
29 4th line (page 10, line 34 in L.D.) by striking out the
30 following: "new or increased" and inserting in its place the
31 following: 'increased'

32 Further amend the bill by striking out all of section 14
33 (page 10, lines 48 to 52 and page 11, lines 1 to 3 in L.D.) and
34 inserting in its place the following:

35 'Sec. 14. 38 MRSA §2309, sub-§5, as enacted by PL 1989, c.
36 929, §7, is repealed.

37 Sec. 15. 38 MRSA §2309, sub-§5-A is enacted to read:

38 5-A. Unit of product. The commissioner may develop
39 guidelines to aid facilities in the establishment of units of
40 product to account for changes in business activity. A
41 facility's selection of or change in unit of product may be
42 reviewed by the commissioner and rejected if it is not
43 appropriated for the facility. If a facility fails to identify a
44 unit of product, the commissioner may establish a unit of product

2 for that facility based upon a review of units of product for
3 similar facilities in the same standard industrial code category.'

4 Further amend the bill in section 17 in subsection 2 in the
5 first line (page 11, line 40 in L.D.) by striking out the
6 following: "\$100" and inserting in its place the following: '\$50'

8 Further amend the bill in section 17 in subsection 2 in the
9 2nd line (page 11, line 41 in L.D.) by striking out the
10 following: "facility up to a maximum of \$1,000 per company" and
11 inserting in its place the following: 'extremely hazardous
12 substance reported by the facility under SARA, Title III, Section
13 312'

14 Further amend the bill in section 17 in subsection 2 in the
15 last 2 lines (page 11, lines 48 and 49 in L.D.) by striking out
16 the following: "Department of Environmental Protection" and
17 inserting in its place the following: 'department'

20 Further amend the bill in section 17 in subsection 3 in the
21 2nd line (page 11, line 52 in L.D.) by striking out the
22 following: "\$300 per facility" and inserting in its place the
23 following: '\$100 per chemical reported by the facility under
24 SARA, Title III, Section 313'

26 Further amend the bill in section 17 in the last 2 lines
27 (page 12, lines 6 and 7 in L.D.) by striking out the following:
28 "Department of Environmental Protection" and inserting in its
29 place the following: 'department'

30 Further amend the bill in section 17 by inserting after
31 subsection 3 the following:

34 '4. Fee limitation. A company subject to fees under this
35 section may not be assessed more than \$1,000 per year.'

36 Further amend the bill in section 19 in subsection 3 in the
37 6th line (page 12, line 33 in L.D.) by striking out the
38 following: "penalty fees" and inserting in its place the
39 following: 'penalties'

42 Further amend the bill by striking out all of section 20 and
43 inserting in its place the following:

44 'Sec. 20. Allocation. The following funds are allocated from
45 the Maine Hazardous Waste Fund to carry out the purposes of this
46 Act.

48		
50		
52		
	1991-92	1992-93
	ENVIRONMENTAL PROTECTION,	
	DEPARTMENT OF	

2 **Maine Hazardous Waste Fund**

4 All Other \$40,962 \$40,962

6 Provides funds for data base
8 development, expenses of the
10 Toxics Reduction Advisory
12 Committee and other general
operating expenses.'

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

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

20 **FISCAL NOTE**

22 1991-92 1992-93

24 **APPROPRIATIONS/ALLOCATIONS**

26 Other Funds \$40,962 \$40,962

28 **REVENUES**

30 Other Funds \$40,962 \$40,962

32 This bill modifies the toxics user, toxics releaser,
34 hazardous waste generator fee system from assessing fees on a per
facility basis to a per chemical basis. This proposed system
36 will increase dedicated revenue to the Maine Hazardous Waste Fund
by \$40,962 annually. This additional revenue, which will be in
38 excess of budgeted revenue, will be allocated to the Department
of Environmental Protection for data base development and other
40 general operating expenses.

42 This bill also establishes a dedicated pollution prevention
fund to establish pollution prevention programs. The anticipated
44 increase in dedicated revenue and required allocations can not be
determined at this time. Costs associated with creating an
46 Office of Pollution Prevention will be absorbed by the
department, utilizing existing budgeted resources.'

50 **STATEMENT OF FACT**

52 This amendment changes the original bill to create an Office

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2 of Pollution Prevention within the Department of Environmental
Protection. This office has responsibility for administering and
4 implementing the State's Toxics Use, Toxics Release and Hazardous
Waste Reduction Program as well as incorporating pollution
6 prevention concepts within the department. The amendment enacted
a definition for pollution prevention.

8 The amendment also establishes the Maine Pollution
Prevention Fund to establish and support pollution prevention
10 programs and activities.

12 Other changes include basing the toxics use reduction goal
on statewide use of toxics in 1990, clarifying that toxics users
14 and toxics releasers only need plan for substances they are
required to report under federal law and allowing facilities to
16 change the toxic substance used at a facility as long as there is
no increase in release.

18 The amendment shifts responsibility for developing a unit of
product to help measure compliance with reduction goals when
20 production fluctuates from the Commissioner of Environmental
Protection to each facility. The commissioner may establish
22 guidelines to accomplish this.

24 The basis for assessing fees also is changed in the
26 amendment from a per facility basis to a per chemical basis. A
cap of \$1,000 per facility is proposed. The amendment changes
28 the allocation and adds a fiscal note to the bill.

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

(6/5/91)

(Filing No. H-580)