

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 386, L.D. 499, Bill, "An Act to Clarify the Process of Resolving Nuisance Complaints Involving Agriculture"

Amend the bill by striking out the title and substituting the following:

'An Act to Clarify the Process of Resolving Nuisance Complaints Involving Agriculture and to Protect Farm Operations'

Further amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation proposes improvements in the laws related to agricultural activities that will be in full operation before this legislation would otherwise become effective; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Further amend the bill by striking out all sections 2, 3 and 4 and inserting in their place the following:

'Sec. 2. 17 MRSA §2701-B, as amended by PL 1991, c. 548, Pt. A, §§6 and 7, is further amended to read:

§2701-B. Action against improper manure handling

The Commissioner of Agriculture, Food and Rural Resources shall investigate complaints of improper manure handling, including, but not limited to, complaints of improper storage or

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spreading of manure. ~~The commissioner may investigate or take~~
~~either action under this section only after notice and hearing and~~
~~utilizing the requirements of Title 5, chapter 375, subchapter~~
IV. If the commissioner is able to identify the source or
sources of the manure and has reason to believe that the manure
is a nuisance and the nuisance is caused by the use of other than
generally-accepted best management practices for manure handling
practices, the commissioner shall:

1. **Findings.** Determine the changes needed in manure handling
to comply with generally-accepted best management practices for
manure handling practices;

2. **Conformance.** Require the person responsible to abide by
the necessary changes determined in subsection 1 and determine if
the changes have been made; and

3. **Report.** Give the written findings of the initial
investigation and any determination of compliance to the
complainant and the person responsible; and

If the person responsible does not adopt generally-accepted
best management practices for manure handling practices, the
commissioner shall send a copy of the written report to the
Department of Environmental Protection and refer the matter in
writing to the Attorney General. The Attorney General may
institute an action to abate a nuisance and the court may order
the abatement with costs as provided under this chapter. If the
commissioner, upon investigation, finds that the person
responsible for the manure is following generally-accepted best
management practices for manure handling practices, the
commissioner shall advise the complainant and the person
responsible in writing.

The commissioner shall adopt rules in accordance with the
Maine Administrative Procedure Act, ~~Title 5, chapter 375,~~ for the
interpretation and implementation of this section, including a
definition of "generally-accepted best management practices for
manure handling practices."

If the commissioner finds that improper manure handling may
have affected water quality and the person responsible does not
adopt generally-accepted best management practices for manure
handling practices, the commissioner shall advise the
Commissioner of Environmental Protection that a potential water
quality violation exists and the Commissioner of Environmental
Protection may respond as appropriate.

Sec. 3. 17 MRSA §2805, sub-§3-A is enacted to read:

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(4/26/93) (Filing No. H-187)