

MAINE STATE LEGISLATURE

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L.D. 928

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NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 677, L.D. 928, Bill, "An Act to Encourage Compliance with Environmental Laws Administered by the Department of Environmental Protection"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSA §343-C, sub-§1, as enacted by PL 1991, c. 804, Pt. C, §3, is amended to read:

1. Program components. The program must:

A. Provide for the development, collection and coordination of information concerning compliance methods and technologies;

B. Provide for the encouragement of lawful cooperation among persons engaged in activities regulated by the department;

C. Provide assistance with pollution prevention and accidental release detection and prevention;

D. Ensure that a person engaging in an activity that is subject to regulation by the department is informed of that person's rights and obligations under environmental programs administered by the department, and assist persons in determining the applicable permitting and programmatic requirements of the department; and

COMMITTEE AMENDMENT

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2 E. Develop procedures to consider requests from regulated
3 persons to modify work practice or technological compliance
4 methods or the milestones for implementing those methods.

6 Any instance of noncompliance identified as a result of a person
7 requesting assistance through the program must be corrected by
8 that person. The commissioner is not required to initiate a
9 formal enforcement action against a person found to be in
10 noncompliance as a result of a request for assistance through the
11 program. The commissioner, in cooperation with the Attorney
12 General and in conformity with federal requirements, shall
13 develop a written enforcement policy for responding to violations
14 identified as a result of a small business requesting assistance
15 through the program. The policy must outline conditions under
16 which the department will forego civil penalties when the
17 violation is not a recurrence of a violation for which a prior
18 formal or informal enforcement response has been taken, the
19 violation was inadvertent and did not result in significant
20 environmental harm or risk to human health and the business acts
21 promptly and responsibly to correct the violation.

22
23 **Sec. 2. Report; legislation authorized.** The Commissioner of
24 Environmental Protection shall submit the written enforcement
25 policy developed pursuant to section 1 of this Act to the members
26 of the Joint Standing Committee on Natural Resources by February
27 1, 1996. The Joint Standing Committee on Natural Resources is
28 authorized to report out legislation to the Second Regular
29 Session of the 117th Legislature if a majority of the committee
30 determines that legislation is advisable in response to the
31 commissioner's policy.'

32
33 Further amend the bill by inserting at the end before the
34 statement of fact the following:

35 **·FISCAL NOTE**

36
37 The Department of Environmental Protection will incur some
38 minor additional costs to develop a written enforcement policy
39 pertaining to certain small businesses. These costs can be
40 absorbed within the department's existing budgeted resources.

41
42 Increased cooperation with certain small businesses may
43 result in minor increases of dedicated revenue to the Department
44 of Environmental Protection from various dedicated licensing
45 fees. These increases may be offset by minor dedicated revenue
46 losses resulting from uncollected civil penalties. The potential
47 reduction of civil penalties may also result in minor reductions
48 of General Fund revenue.'

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COMMITTEE AMENDMENT "A" to H.P. 677, L.D. 928

STATEMENT OF FACT

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The amendment replaces the bill. Instead of specifying an enforcement policy for violations identified by Department of Environmental Protection staff while rendering assistance under the technical assistance program, the amendment requires the Commissioner of Environmental Protection to develop a written policy for determining when to forego civil penalties for those identified violations by a small business that seeks assistance under the program. It also adds a fiscal note to the bill.