

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1062

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S.P. 385

In Senate, March 28, 1995

### **An Act to Reduce Duplicative Reporting.**

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Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator LORD of York.

**Be it enacted by the People of the State of Maine as follows:**

2           **Sec. 1. 37-B MRSA §797, sub-§§6 and 7,** as amended by PL 1989,  
4 c. 929, §2, are further amended to read:

6           **6. Information withholding.** An indication if the person is  
electing to withhold information from disclosure under section  
8 800; and

10           **7. Transportation.** A description of the manner in which  
the substance is shipped to the facility; ~~and .~~

12           **Sec. 2. 37-B MRSA §797, sub-§8,** as enacted by PL 1989, c. 929,  
14 §3, is repealed.

16           **Sec. 3. 37-B MRSA §799,** as amended by PL 1993, c. 355, §2, is  
18 further amended to read:

**§799. Toxic chemical release forms**

20           Under this section, the owner or operator of every facility  
22 with 10 or more employees and within Standard Industrial  
Classification Codes 20-39 must file toxic chemical release forms  
24 for routine releases with the United States Environmental  
Protection Agency, the Department of Environmental Protection,  
26 the commission and the local emergency planning committee by  
October 1, 1989 and annually thereafter consistent with the  
28 Superfund Amendments and Reauthorization Act of 1986, Public Law  
99-499, Title III, Section 313, and 40 Code of Federal  
30 Regulations, Part 372. Those forms must be made available to the  
public by the commission and the local emergency planning  
32 committee. ~~The owner or operator of every facility required to  
report under this section must also submit a report on the  
34 progress made by the facility toward meeting the toxics release  
reduction goals established in Title 38, section 2303.~~

36           **Sec. 4. 38 MRSA §341-D, sub-§1,** as amended by PL 1993, c. 328,  
38 §1, is further amended to read:

40           **1. Rulemaking.** Subject to the Maine Administrative  
Procedure Act, the board shall adopt, amend or repeal reasonable  
42 rules and emergency rules necessary for the interpretation,  
implementation and enforcement of any provision of law that the  
44 department is charged with administering. The board shall also  
adopt, amend and repeal rules as necessary for the conduct of its  
46 business. Application forms, report forms and questionnaires  
developed by the department that request a significant amount of  
48 information must also be adopted, amended or repealed pursuant to  
the Maine Administrative Procedure Act.

2 The department shall identify in its regulatory agenda, where  
4 feasible, a proposed rule or provision of a proposed rule that is  
6 anticipated to be more stringent than the federal standard, if an  
8 applicable federal standard exists.

10 During the consideration of any proposed rule by the board, where  
12 feasible, and using information available to it, the department  
14 shall identify provisions of the proposed rule that the  
16 department believes would impose a regulatory burden more  
18 stringent than the burden imposed by the federal standard, if  
20 such a federal standard exists, and shall explain in a separate  
22 section of the basis statement the justification for the  
24 difference between the agency rule and the federal standard.

26 **Sec. 5. 38 MRSA §585-C, sub-§2, ¶B**, as affected by PL 1989, c.  
28 890, Pt. A, §40 and amended by Pt. B, §160, is repealed and the  
following enacted in its place:

20 B. In conducting this inventory, the commissioner may rely  
22 upon only those questionnaires and other information  
24 provided by sources in the State to the United States  
Environmental Protection Agency pursuant to federal  
reporting requirements.

26 **Sec. 6. 38 MRSA §585-C, sub-§2, ¶C**, as affected by PL 1989, c.  
28 890, Pt. A, §40 and amended by Pt. B, §160, is further amended to  
read:

30 C. In carrying out this inventory, the commissioner may  
32 require persons to provide ~~information-on-forms-supplied-by~~  
34 ~~the-commissioner~~ copies of reports submitted to the United  
36 States Environmental Protection Agency. Refusal to provide  
38 the information subjects the person of whom it is requested  
to a civil penalty of not more than \$100 for each day's  
delay. Submission of false information constitutes a  
violation of section 349, subsection 3, in addition to being  
subject to remedies otherwise available by law.

40 **Sec. 7. 38 MRSA §2303, sub-§5**, as amended by PL 1991, c. 520,  
42 §12, is further amended to read:

44 **5. Progress evaluation.** Progress toward meeting the toxics  
46 use, toxics release and hazardous waste reduction goals may be  
48 evaluated annually by the commissioner based only on manifest  
50 data, progress reports submitted under Title 37-B, sections 797  
and 799, and annual hazardous waste generator reports ~~and other~~  
~~appropriate-available-information.~~ The commissioner may require  
facilities to submit additional information only to the extent  
the information is necessary to determine progress towards

meeting the reduction goals and is not available from manifest data, reports submitted under Title 37-B, sections 797 and 799 and annual hazardous waste generator reports. To determine achievement of reduction goals, the commissioner may adjust the baseline figure to account for changes in the statutory or regulatory definitions of toxic substances and hazardous wastes.

Sec. 8. 38 MRSA §2307, sub-§1, as enacted by PL 1989, c. 929, §7, is repealed.

Sec. 9. 38 MRSA §2307, sub-§2, as amended by PL 1991, c. 520, §16, is further amended to read:

**2. Toxics release reduction reports.** ~~As set forth in Title 37-B, section 799, toxics releasers must report their progress toward meeting the toxics release reduction goals as part of their reporting requirements to the State Emergency Response Commission.~~ After January 1, 1994, the commissioner may require a toxics releaser to submit a summary of the toxics release reduction plan required under section 2305 within 60 days when:

A. A facility has not made sufficient progress in reducing toxics release as evidenced by failure to meet the toxics release reduction goals;

B. A facility has received an exemption under section 2304, subsection 2, paragraph B, subparagraph (2), and has not made sufficient progress toward meeting the alternate toxics release reduction goals established by the commissioner in section 2304, subsection 2, paragraph B, subparagraph (2); or

C. A new facility has toxics release rates that are significantly greater per unit of product than in similar facilities within the same standard industrial code category.

If a plan summary is required under this subsection, the commissioner shall notify the owner or operator of that facility of that requirement.

## STATEMENT OF FACT

This bill directs the Department of Environmental Protection to utilize the toxics release inventory reports submitted by businesses to the United States Environmental Protection Agency for purposes of preparing the department's hazardous air pollutant inventory. This bill also requires that the department evaluate progress toward meeting the reduction goals under the laws requiring toxics use reduction on the basis of reports

2 already submitted to the department and the United States  
Environmental Protection Agency pursuant to other existing  
reporting requirements.

4

6 This bill also directs the department to develop application  
forms, report forms and questionnaires pursuant to the Maine  
Administrative Procedure Act to ensure that the public has an  
8 opportunity for input and comment.