

# MAINE STATE LEGISLATURE

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M  
R. & S.

L.D. 1672

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MAJORITY  
NATURAL RESOURCES

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
117TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1222, L.D. 1672, Bill, "An Act to Amend Certain Laws Administered by the Department of Environmental Protection"

Amend the bill in section 4 by striking out all of subsection 6-A and inserting in its place the following:

'6. Transfer of ownership. "Transfer of ownership" means a change in the legal entity that owns a property, facility or structure that is the subject of a license issued by the department.'

Further amend the bill in section 5 in subsection 1-C in the first paragraph in the 3rd line (page 2, line 20 in L.D.) by striking out the following: "cooper" and inserting in its place the following: 'copper'

Further amend the bill in section 5 in subsection 1-C in the first paragraph in the 5th line (page 2, line 22 in L.D.) by striking out the following: "it is" and inserting in its place the following: 'the commissioner has'

Further amend the bill in section 5 in subsection 1-C in paragraph D in the 2nd line (page 2, line 36 in L.D.) by striking out the following: "; and" and inserting in its place the following: ';'

Further amend the bill in section 5 in subsection 1-C in paragraph E in the last line (page 2, line 41 in L.D.) by striking out the following: "municipalities." and inserting in its place the following: 'municipalities; and'

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Further amend the bill in section 5 in subsection 1-C by inserting after paragraph E the following:

'F. The Department of Inland Fisheries and Wildlife has found that the discharge will not have an adverse impact on the fishery management plan of that water body.'

Further amend the bill in section 5 in subsection 1-C in the last paragraph in the first line (page 2, line 43 in L.D.) by striking out the following: "cooper" and inserting in its place the following: 'copper' and in the 8th line (page 2, line 50 in L.D.) by striking out the following: "the 2 meters" and inserting in its place the following: 'than 2 meters'

Further amend the bill by inserting after section 5 the following:

**'Sec. 6. 38 MRSA §439-A, sub-§8 is enacted to read:**

**8. Alternative setback requirements.** A municipality may adopt an ordinance allowing expansion of legally existing structures that do not meet the water setback requirement if the expansion meets either the requirements of this subsection or the requirements of subsection 4. The standards for this subsection, which apply for the lifetime of the structures, are as follows.

A. Following the expansion, the total footprint of all structures within the water setback area, both principal and accessory, may not exceed 500 square feet plus 5 square feet for each foot of shore frontage on the lot, to a maximum of 1,250 square feet. As used in this subsection:

(1) "Shore frontage" means the length of a lot bordering a water body or wetland, as measured in a straight line between the intersections of the lot lines with the shoreline at the normal high-water line of the water body or upland edge of the wetland; and

(2) "Footprint" means the total area covered by all structures on the lot, including decks and porches.

B. The expanded portion of the structure may not exceed the lesser of 25 feet in height or the height of the existing structure.

C. An expansion may not create further nonconformity with the water setback requirement. Within 75 feet of the shoreline, expansions to the principal structure may not increase the width of the structure by more than 30%, as

2 measured along the face of the structure most closely  
3 parallel to the shoreline. An expansion consisting of  
4 roofed living space may not be constructed closer to the  
5 shoreline than any existing roofed living space. For  
6 purposes of this paragraph, decks and porches are not living  
7 spaces.

8 D. Adjacent to great ponds, and rivers and streams flowing  
9 to great ponds, storm water runoff from roofs and other  
10 impervious surfaces created by any expansion must be  
11 directed to flow through a buffer strip at least 25 feet  
12 wide and consisting of vegetative cover or other materials  
13 sufficient to filter storm water runoff and erosion, except  
14 that:

15 (1) If the expansion area is less than 25 feet from  
16 the water, the width of the buffer strip must extend  
17 from the edge of the structure to the naturally  
18 vegetated edge of the water body; or

19 (2) The property owner may implement alternative  
20 measures for infiltrating storm water runoff from the  
21 expansion area such as diverting runoff to an  
22 infiltration bed or trench capable of storing one inch  
23 of rainfall from the surface of the expanded structure.

24 E. A permit may not be granted for any expansion of living  
25 area unless the applicant demonstrates that:

26 (1) The existing wastewater disposal system meets the  
27 standards for substantial compliance with Department of  
28 Human Services rules relating to subsurface wastewater  
29 disposal systems, as substantial compliance is defined  
30 in those rules for purposes of Title 30-A, section  
31 4215, subsection 2; or

32 (2) A replacement system will be installed that meets  
33 the standards for substantial compliance, as defined in  
34 those rules.

35 F. Accessory structures may be expanded if the expansion  
36 does not expand the volume or floor area of the structure by  
37 30% or more and if the additional footprint is included in  
38 calculating the limit set forth in paragraph A.'

39 Further amend the bill in section 12 in subsection 4-B in  
40 the blocked paragraph in the 8th line (page 5, line 36 in L.D.)  
41 by striking out the following: "mean" and inserting in its place  
42 the following: 'mean are' and in the 12th line (page 5, line 40  
43 in L.D.) by striking out the following: "do" and inserting in its  
44 place the following: 'de does'

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Further amend the bill by striking out all of section 13 and inserting in its place the following:

'Sec. 13. 38 MRSA §1453-A, sub-§2, as amended by PL 1995, c. 333, §3, is further amended by amending the first paragraph to read:

**2. Membership; appointment.** The commission consists of 16 15 members, appointed as follows:

**Sec. 14. 38 MRSA §1453-A, sub-§2, ¶A,** as enacted by PL 1993, c. 664, §15 and affected by §21, is repealed.'

Further amend the bill in section 16 in that part designated "**§1479.**" in the last paragraph in the first line (page 6, line 41 in L.D.) by inserting after the following: "section" the following: 'does not replace any other license required by law and'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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

#### FISCAL NOTE

The Department of Environmental Protection will incur some minor additional costs to enforce certain federal air emissions standards over current licensees to provide technical and legal assistance to those municipalities participating in the landfill closure and remediation program and to review amended municipal shoreland zoning ordinances. These costs can be absorbed within the department's existing budgeted resources.

The Board of Environmental Protection will realize some minor savings from repeal of the requirement to review and approve low-level radioactive waste facilities.

The Department of Environmental Protection will realize some minor savings from removal of the Commissioner of Environmental Protection from the Advisory Commission on Radioactive Waste.

Licensure of algaecide applicators will result in insignificant increases of dedicated revenue to the Department of Environmental Protection from fees collected by the Maine Environmental Protection Fund.

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2 This bill may increase the number of civil suits filed in  
the court system. The additional workload and administrative  
4 costs associated with the minimal number of new cases filed can  
be absorbed within the budgeted resources of the Judicial  
Department. The collection of additional filing fees may also  
6 increase General Fund revenue by minor amounts.

8 The Department of Inland Fisheries and Wildlife will incur  
some minor additional costs to review whether the use of copper  
10 compounds in lakes would adversely impact the fishery management  
plan for a particular lake. These costs can be absorbed within  
12 the department's existing budgeted resources.'

## STATEMENT OF FACT

16 This amendment, the majority report of the Joint Standing  
Committee on Natural Resources, allows municipalities to permit  
18 additional expansion in a shoreland zone of structures that do  
not meet the water setback requirements. Expansion would be  
20 allowed provided the total footprint of all structures on the lot  
did not exceed a prescribed square footage, based on how much  
22 shore frontage the lot contained, with a maximum footprint of  
24 1,250 square feet. Height of the expansion would be limited to  
the lesser of the height of the existing structure or 25 feet.

26 The provision prohibits expansion from creating further  
nonconformity with the water setback requirement, prohibits  
28 creation of roofed living space closer to the shore than existing  
roofed living space and limits the expansion of structures closer  
30 to the water by prohibiting lateral expansion greater than 30%.  
The amendment also requires the property owner to take measures  
32 to lessen storm water runoff from the expansion by maintaining a  
buffer strip or providing other measures to lessen the runoff.  
34 Finally, the amendment requires that wastewater disposal systems  
must be in substantial compliance with, or be brought into  
36 substantial compliance with, state wastewater disposal rules..

38 The amendment also adds a condition for use of copper  
40 compounds in certain lakes to provide that copper compounds may  
be used only if the Department of Inland Fisheries and Wildlife  
42 determines that the use of copper compounds will not adversely  
impact the fishery management plan for the water body. The  
44 amendment also corrects typographical errors in the section  
relating to use of copper compounds.

46 This amendment deletes the section of the bill expanding the  
48 Department of Environmental Protection's rule-making authority  
over waste oil and clarifies when ownership of a facility or

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2 structure licensed under any department law is considered to be  
transferred.

4 This amendment removes the Commissioner of Environmental  
Protection from the Advisory Commission on Radioactive Waste and  
6 clarifies that approval of a low-level radioactive waste facility  
by the Legislature does not exempt the facility owner or operator  
8 from the need to obtain other licenses and approvals required by  
law. For example, if the facility meets the definition of a  
10 "structure" under the site location of development law, then a  
site location license must be obtained. If waste from the  
12 facility, in addition to being radioactive, is identified as  
hazardous waste by rules adopted by the Board of Environmental  
14 Protection, it is subject to requirements of the state hazardous  
waste law and rules.

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