

# MAINE STATE LEGISLATURE

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L.D. 1838

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## NATURAL RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1343, L.D. 1838, Bill, "An Act to Remove Statutory References to the Maine Waste Management Agency"

Amend the bill in Part A by inserting before section 1 the following:

'Sec. A-1. 5 MRSA §3305, sub-§1, ¶L, as enacted by PL 1995, c. 465, Pt. B, §3 and affected by Pt. C, §2, is amended by amending subparagraph (2) to read:

(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature by January 1, 1998 and every 2 5 years thereafter; and'

Further amend the bill in Part A by inserting after section 3 the following:

'Sec. A-4. 32 MRSA §1723, sub-§2, as amended by PL 1995, c. 465, Pt. A, §7 and affected by Pt. C, §2, is repealed.

Sec. A-5. 32 MRSA §1726, as amended by PL 1995, c. 465, Pt. A, §8 and affected by Pt. C, §2, is repealed and the following enacted in its place:

#### §1726. Enforcement

A person who labels a plastic container in violation of this chapter commits a violation of the Maine Unfair Trade Practices Act.

Sec. A-6. 32 MRSA §1732, sub-§1, as amended by PL 1995, c. 465, Pt. A, §9 and affected by Pt. C, §2, is repealed.

Sec. A-7. 32 MRSA §1732, sub-§1-A is enacted to read:

1-A. Department. "Department" means the Department of Environmental Protection.

Sec. A-8. 32 MRSA §1734, sub-§2, as amended by PL 1995, c. 184, §3, is further amended to read:

**2. Health and safety requirements; feasibility; post-consumer materials.** The manufacturer, supplier or distributor petitions the agency department for an exemption for a particular package or packaging component and the agency department grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of state or federal law.

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents.

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3.

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C is valid for 6 years;

Sec. A-9. 32 MRSA §1735, sub-§2, as amended by PL 1993, c. 310, Pt. A, §2, is further amended to read:

**2. Presentation of certificates.** Each manufacturer shall furnish the agency department, at the agency's department's request, with a copy of any certificate of compliance and each manufacturer or supplier shall furnish, at the agency's department's request, copies of a certificate of compliance for distribution to the public.

Sec. A-10. 32 MRSA §1736, sub-§1, as enacted by PL 1989, c. 849, §1, is amended to read:

1. **Enforcement.** The Department ~~of Agriculture, Food and Rural Resources~~ department shall enforce the provisions of this chapter and may inspect, with the consent of the owner or agent, any property or building to accomplish the objectives of this chapter.

Sec. A-11. 32 MRSA §1737, as enacted by PL 1989, c. 849, §1, is amended to read:

**§1737. Rules**

The agency department shall adopt rules implementing the provisions of this chapter in consultation with the Department of Agriculture, Food and Rural Resources. Rules must be adopted in accordance with the Maine Administrative Procedure Act. No rule adopted pursuant to this chapter may add or remove prohibitions on packaging or packaging components.

Sec. A-12. 32 MRSA §1738, as enacted by PL 1989, c. 849, §1, is amended to read:

**§1738. Public access**

A citizen of the State may request in writing from the agency department a copy of the certificate of compliance for a package or packaging component found in use or for sale in the State.'

Further amend the bill in Part A by inserting after section 4 the following:

'Sec. A-5. 36 MRSA §2526, sub-§4, as amended by PL 1993, c. 433, §1, is further amended to read:

4. **Limitation; carry-over.** The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years ~~for a period not to exceed 15 years~~ but must be used by the tax year ending not later than June 30, 1998.

Further amend the bill in Part A by inserting after section 5 the following:

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2        'Sec. A-6. 36 MRSA §5219-D, sub-§4, as amended by PL 1993, c.  
433, §2, is further amended to read:

4        **4. Limitation; carry-over.** The amount of the credit that  
6 may be used by a taxpayer for a taxable year may not exceed 50%  
of the amount of tax otherwise due under this Part for that  
8 year. A credit may not be used to reduce taxes in any tax year  
starting before January 1, 1993. Any unused credit may be  
10 carried over to the following year or years ~~for a period not to~~  
~~exceed 15 years~~ but must be used by the tax year ending not later  
than June 30, 1998.

12        **Sec. A-7. 38 MRSA §343-D, sub-§1,** as amended by PL 1995, c.  
14 465, Pt. A, §11 and affected by Pt. C, §2, is further amended to  
read:

16        **1. Appointment; composition.** The committee consists of 16  
18 voting members.

20        A. The Governor shall appoint 2 representatives from the  
22 business community, 2 elected or appointed municipal  
officials who are not owners or representatives of owners of  
24 small business stationary sources, and 2 representatives of  
organized labor.

26        B. The President of the Senate shall appoint one member  
from a public health organization, one member from an  
28 environmental organization and one public member who is an  
owner or represents an owner of a small business stationary  
30 source.

32        C. The Speaker of the House of Representatives shall  
appoint one member from a public health organization, one  
34 member from an environmental organization and one public  
member who is an owner or represents an owner of a small  
36 business stationary source.

38        D. The commissioner shall appoint a designee to represent  
the department.

40        E. The Senate Minority Leader and the House Minority Leader  
42 shall each appoint one member who is an owner or represents  
an owner of a small business stationary source.

44        F. The Director of the Bureau of Air Quality Control shall  
46 appoint a designee to represent the bureau.

48        The Commissioner of Labor, and the Director of the Maine  
Emergency Management Agency ~~and--the--Director--of--the--State~~

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Planning-Office serve as ex officio members and do not vote on committee matters.

As used in this subsection, unless the context otherwise indicates, a "small business stationary source" means a source that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.'

Further amend the bill in Part A by striking out all of section 14.

Further amend the bill in Part A by inserting after section 22 the following:

**Sec. A-23. 38 MRSA §2125**, as amended by PL 1995, c. 465, Pt. A, §38 and affected by Pt. C, §2, is repealed.

**Sec. A-24. 38 MRSA §2133, sub-§2-A**, as enacted by PL 1995, c. 465, Pt. A, §46 and affected by Pt. C, §2, is amended to read:

**2-A. Technical and financial assistance program.** A program of technical and financial assistance for waste reduction and recycling is established in the office to assist municipalities with managing solid waste. The director shall administer the program in accordance with the waste management hierarchy in section 2101. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

**Sec. A-25. 38 MRSA §2133, sub-§3**, as amended by PL 1995, c. 465, Pt. A, §47 and affected by Pt. C, §2, is further amended to read:

**3. Recycling capital investment grants.** The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office may establish requirements for local cost sharing of up to 25% 50% of the total grant amount.

**Sec. A-26. 38 MRSA §2133, sub-§7** is enacted to read:

**7. Recycling progress reports.** Municipalities shall report annually, on forms provided by the office, on their solid waste management and recycling practices. The annual report must include how much of each type of solid waste is generated and how that solid waste is managed. The office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever

possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

Sec. A-27. 38 MRSA §2134, as amended by PL 1995, c. 465, Pt. A, §51 and affected by Pt. C, §2, is further amended to read:

**§2134. Marketing assistance**

The office shall ~~implement market development and provide~~ marketing assistance programs, ~~consistent with the recycling component of the state plan,~~ which must may include, ~~without limitation,~~ the following elements:

**3. Information clearinghouse.** An information clearinghouse on recycling markets to improve the marketing of materials to be recycled. The office shall maintain a current list of municipal recycling programs, together with a description of the recyclable materials available through the programs. The office shall also maintain listings of brokers, handlers, processors, transporters and other persons providing services and potential markets for recyclable materials. The office shall actively promote the services of the clearinghouse and shall seek to match programs with appropriate recycling businesses. The office shall make its information on recycling services available to public and private solid waste generators seeking markets or services for recyclable materials. The office shall make its technical reports and planning documents available to municipalities and regional associations on a timely basis; and

**4. Brokering service.** Provision for marketing and brokering services for materials when municipal and regional association efforts to market the material and the information clearinghouse are inadequate, ~~and,~~

~~6. Reuse of waste. Assistance to industries in promoting the reuse of industrial and commercial wastes that are suitable raw materials for other processes.~~

Sec. A-28. 38 MRSA §2137, first ¶, as amended by PL 1995, c. 465, Pt. A, §55 and affected by Pt. C, §2, is further amended to read:

The office, ~~in cooperation with the~~ Department of Administrative and Financial Services, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State.

2           **Sec. A-29. 38 MRSA §2138, sub-§1**, as amended by PL 1995, c.  
4           465, Pt. A, §56 and affected by Pt. C, §2, is further amended to  
          read:

6           **1. Office paper recycling mandated.** Any person employing  
8           15 or more people at a site within the State shall implement an  
          office paper and corrugated cardboard recycling program.

10          The office ~~shall~~ may provide technical and marketing assistance  
12          and direction to entities within the State to assist with meeting  
          this requirement. Municipalities and regional associations may  
14          assist employers in attaining the objectives of this section.

16          **Sec. A-30. 38 MRSA §2139**, as amended by PL 1995, c. 465, Pt.  
          A, §57 and affected by Pt. C, §2, is repealed.

18          **Sec. A-31. 38 MRSA §2140**, as enacted by PL 1989, c. 585, Pt.  
20          A, §7, is amended to read:

22          **§2140. Interstate and national initiatives**

24          The office ~~shall~~ may participate in interstate and national  
26          initiatives to adopt uniform state laws when practicable, and to  
          enter compacts between the State and other states for the  
          improved management, recycling and reduction of solid waste.'

28          Further amend the bill in Part A by striking out all of  
30          section 29 and inserting in its place the following:

32          '**Sec. A-29. 38 MRSA §2166, sub-§2**, as enacted by PL 1991, c.  
          808, §2, is repealed.'

34          Further amend the bill in Part A by inserting after section  
36          47 the following:

38          '**Sec. A-48. PL 1993, c. 591, §§3 and 4** are repealed.

40          **Sec. A-49. Notice of tax credit termination date.** The State  
42          Planning Office shall notify each person certified as eligible  
          for the investment tax credit provided in the Maine Revised  
44          Statutes, Title 36, section 2526 or 5219-D of the June 30, 1998  
          termination date for use of the credit.'

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

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



**FISCAL NOTE**

The repeal of the 15-year carryforward of allowable solid waste reduction investment tax credits may result in an increase of General Fund revenue and in an increase in dedicated revenue to the Local Government Fund for state-municipal revenue sharing beginning in fiscal year 1998-99. The amounts can not be determined at this time.

The State Planning Office will incur some minor additional costs to notify taxpayers of the repeal of the 15-year carryforward of allowable credits, but will realize some minor savings from the changes in the responsibilities for the toxics-in-packaging program. These net costs can be absorbed within the office's existing budgeted resources.

The Department of Agriculture, Food and Rural Resources will realize some minor savings from the transfer of the enforcement responsibilities for the toxics-in-packaging program to the Department of Environmental Protection.

The Department of Environmental Protection will incur some minor additional costs to administer and enforce the toxics-in-packaging program. These costs can be absorbed within the department's existing budgeted resources.'

**STATEMENT OF FACT**

This amendment discontinues or transfers some of the program responsibilities transferred to the State Planning Office from the former Maine Waste Management Agency.

The amendment:

1. Requires businesses to take solid waste reduction investment tax credits by the end of the tax year ending not later than June 30, 1998 and requires the State Planning Office to notify persons who have been certified for the tax credit of this deadline;

2. Changes the requirement to revise the Maine solid waste management and recycling plan from every 2 years to every 5 years. Data and a trend analysis will still be provided every 2 years;

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3. Eliminates the State Planning Office's responsibility for researching and writing a report on plastic holding devices;

4. Removes authority to approve alternative labels for plastic containers and make violations of labeling laws subject to the Maine Unfair Trade Practices Act;

5. Transfers the administration of the toxics-in-packaging rules to the Department of Environmental Protection;

6. Removes the requirement that the State Planning Office report separately on aseptic packaging recycling;

7. Removes the State Planning Office's participation in the Pollution Prevention Advisory Committee;

8. Removes the requirement that the State Planning Office evaluate municipal efforts to implement waste management hierarchy and to prepare a separate, special report to the Governor and Legislature on this progress. Evaluating towns' progress towards the State's recycling goal remains and will include amounts landfilled, incinerated and recycled;

9. Adds a preference for regional efforts when allocating the State Planning Office's waste management financial and technical assistance resources;

10. Changes the maximum recycling grant local match requirement from 25% to 50% to increase the leverage of state funds;

11. Clarifies the nature of marketing assistance and removes the requirement that the State Planning Office assist industries with reusing industrial and commercial wastes;

12. Removes the requirement that the State Planning Office assist the Department of administrative and Financial Services with state agency recycling efforts and with assessing state agency waste reduction and recycling activities;

13. Eliminates the State Planning Office's mandatory role in providing business assistance with office paper recycling and instead authorizes the office to provide such assistance;

14. Eliminates the requirement that the State Planning Office conduct a program of public education;

15. Eliminates the State Planning Office's mandatory role in participating in regional or national initiatives and instead authorizes the office to participate;

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2           16. Eliminates the granting of exemptions for nonremovable  
rechargeable batteries; and

4           17. Adds a fiscal note to the bill.