

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1291, L.D. 1836, Bill, "An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program"

Amend the bill in Part A in section 9 in subsection 9 in paragraph B in the 8th line (page 4, line 44 in L.D.) by striking out the following: "may be no exemption" and inserting in its place the following: 'is not an affirmative defense'

Further amend the bill in Part A in section 9 in subsection 9 in paragraph B in the 13th line (page 4, line 49 in L.D.) by striking out the following: "exemption" and inserting in its place the following: 'affirmative defense'

Further amend the bill in Part A in section 22 in subsection 1 in paragraph D in the 6th line from the end (page 10, line 42 in L.D.) by inserting after the following: "judgment" the following: ', after consultation with the applicant and other interested parties of record'

Further amend the bill in Part A in section 22 in subsection 1-A in the 6th line (page 11, line 10 in L.D.) by striking out the following: "emergency" and inserting in its place the following: 'emergency'

Further amend the bill in Part A in section 25 in subsection 5 in the 3rd line (page 12, line 46 in L.D.) by striking out the following: "section" and inserting in its place the following: 'subsection'

Further amend the bill in Part A in section 25 in subsection 5 by striking out all of paragraph C (page 13, lines 47 to 49 in L.D.) and inserting in its place the following:

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'C. Notwithstanding Title 5, section 10051, the board may modify, revoke or suspend a license when the board finds that any of the conditions specified in section 341-D, subsection 3 exist or upon an application for transfer of a license.'

Further amend the bill in Part A in section 26 in subsection 2 in the 10th line (page 14, line 14 in L.D.) by striking out the following: "do not violate" and inserting in its place the following: 'comply with'

Further amend the bill in Part B by striking out all of section 4 (page 18, lines 23 to 28 in L.D.).

Further amend the bill in Part B in section 8 in that part designated "§353-B." in subsection 1 in paragraph C in subparagraph (1) in the next to the last line (page 24, line 11 in L.D.) by striking out the following: "2" and inserting in its place the following: '1.5'

Further amend the bill in Part B in section 8 in that part designated "§353-B." in subsection 1 in paragraph C in subparagraph (2) in the last line (page 24, line 16 in L.D.) by striking out the following: "\$50" and inserting in its place the following: '\$35'

Further amend the bill in Part B in section 8 in that part designated "§353-B." in subsection 2 by striking out all of paragraphs A and B (page 24, lines 27 to 50; page 25, lines 1 to 49; page 26, lines 1 to 50; page 27, lines 1 to 49; and page 28 lines 1 to 7 in L.D.) and inserting in their place the following:

'A. The base and maximum fees that may be assessed to categories of discharge activities are as follows.

<u>Discharge Group</u>	<u>Base fee not to exceed</u>	<u>Maximum fee for individual in group</u>
<u>Publicly owned treatment facilities, greater than 6,000 gallons per day but less than 5 million gallons per day and no significant industrial waste</u>	<u>annual fee \$175</u>	<u>none</u>
<u>Publicly owned treatment facilities, greater than 5 million</u>	<u>annual fee \$770</u>	<u>none</u>

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2	<u>gallons per day or</u>			
	<u>with significant</u>			
4	<u>industrial waste</u>			
	<u>Major industrial</u>	<u>annual fee</u>	<u>\$1,850</u>	<u>none</u>
6	<u>facility, process</u>			
	<u>wastewater (based</u>			
8	<u>on EPA list of</u>			
	<u>major source</u>			
10	<u>discharges)</u>			
	<u>Other industrial</u>	<u>annual fee</u>	<u>\$630</u>	<u>none</u>
12	<u>facility, process</u>			
14	<u>wastewater</u>			
	<u>Food handling or</u>	<u>annual fee</u>	<u>\$315</u>	<u>\$2,100</u>
16	<u>packaging waste-</u>			
18	<u>water</u>			
	<u>Fish rearing facility</u>	<u>annual fee</u>	<u>\$230</u>	<u>\$1,400</u>
20				
	<u>Noncontact cooling</u>	<u>annual fee</u>	<u>\$90</u>	<u>\$7,000</u>
22	<u>water</u>			
24				
	<u>Industrial or</u>	<u>annual fee</u>	<u>\$115</u>	<u>\$2,100</u>
26	<u>commercial sources,</u>			
	<u>miscellaneous or</u>			
28	<u>incidental non-</u>			
	<u>process wastewater</u>			
30				
	<u>Municipal combined</u>	<u>annual fee</u>	<u>\$115</u>	<u>\$1,400</u>
32	<u>sewer overflow</u>			
	<u>Sanitary wastewater,</u>	<u>annual fee</u>	<u>\$60</u>	<u>\$1,200</u>
34	<u>commercial sources</u>			
36				
	<u>Sanitary wastewater,</u>	<u>annual fee</u>	<u>\$45</u>	<u>---</u>
38	<u>residential sources</u>			
	<u>600 gallons per day</u>			
40	<u>and less</u>			
	<u>Sanitary wastewater,</u>	<u>annual fee</u>	<u>\$60</u>	<u>\$600</u>
42	<u>residential sources</u>			
44	<u>more than 600 gallons</u>			
	<u>per day</u>			
46				
	<u>Sanitary wastewater,</u>	<u>annual fee</u>	<u>\$60</u>	<u>\$180</u>
48	<u>public sources less</u>			
	<u>than 6,000 gallons</u>			
50	<u>per day</u>			

2	<u>Aquatic pesticide application</u>	<u>annual fee*</u>	<u>\$200</u>	<u>---</u>
4	<u>Snow dumps</u>	<u>annual fee*</u>	<u>\$125</u>	<u>---</u>
6	<u>Salt and sand storage pile</u>	<u>annual fee*</u>	<u>\$150</u>	<u>---</u>
8				
10	<u>Log storage permit</u>	<u>annual fee*</u>	<u>\$200</u>	<u>---</u>
12	<u>General permit coverage for storm water discharges</u>	<u>annual fee*</u>	<u>\$100</u>	<u>---</u>
14				
16	<u>Experimental discharge license</u>	<u>license fee*</u>	<u>\$500</u>	<u>---</u>
18				
20	<u>Mixing zone, in addition to other applicable fees</u>	<u>flat fee*</u>	<u>\$4,000</u>	<u>---</u>
22				
24	<u>Formation of sanitary district</u>	<u>flat fee*</u>	<u>\$300</u>	<u>---</u>
26				
28	<u>Transfer of license for residential or commercial sanitary wastewater</u>	<u>flat fee*</u>	<u>\$100</u>	<u>---</u>
30				

*Discharge or license quantity fees do not apply to these categories.

When a license authorizes multiple discharge points in different categories in the same license, the total maximum fee for the license may not exceed the maximum fee for the most significant category plus 1/2 of the maximum fee for each of the other applicable categories.

B. The annual rate per unit for various pollutants and groups of discharges used in computing discharge and license quantity fees may not exceed the limits set out in this paragraph. When a license authorizes the discharge of pollutants fitting more than one category, the appropriate fee is due for each group and type of pollutant.

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	<u>Rate</u>
2 <u>License group or type of pollutant</u>	
4 <u>Conventional pollutants, license rate</u>	<u>\$1.25 per pound</u>
6 <u>Conventional pollutants, discharge rate</u>	<u>\$2.40 per pound</u>
8 <u>Conventional pollutants, primary treatment only</u>	<u>\$0.55 per pound</u>
10 <u>Conventional pollutants, food handling or packing facilities</u>	<u>\$0.05 per pound</u>
12	
14 <u>Nonconventional or toxic pollutants</u>	<u>Variable*</u>
16 <u>Heat (as licensed flow x temperature x 8.34)</u>	<u>\$0.045 per million BTU</u>
18 <u>Flow: fish rearing facilities</u>	<u>\$45 per million gallons</u>
20 <u>Flow: combined sewer overflows (based on treatment facility design)</u>	<u>\$55 per million gallons</u>
22	
24 <u>Flow: nonprocess from industrial or commercial sources</u>	<u>\$175 per million gallons</u>
26 <u>Flow: publicly owned treatment facilities</u>	<u>\$630 per million gallons</u>
28	
30 <u>Flow: process from industrial or commercial sources</u>	<u>\$630 per million gallons</u>
32 <u>Flow: treated storm water</u>	<u>\$17.50 per million gallons</u>
34 <u>Flow: sanitary from commercial sources</u>	<u>\$0.02 per gallon</u>
36 <u>Flow: sanitary from residential sources</u>	<u>\$0.02 per gallon</u>
38	
40 <u>Flow: sanitary from publicly owned facilities less than 6,000 gallons per day</u>	<u>\$0.02 per gallon</u>
42	
44 <u>*The license rate per pound is \$10.50 divided by the licensed effluent concentration. The discharge rate per pound is \$21 divided by the licensed effluent concentration.</u>	
46	
48 <u>For the purposes of this section, the term "conventional pollutant" means oxygen-demanding compounds, suspended or dissolved solids, oil and grease. The term</u>	
50	

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"nonconventional pollutants" means other chemical constituents subject to fees. Excluded from fees are the following: pH, residual chlorine, settleable solids, bacteria, whole effluent toxicity tests, color, any compound without numeric license limitations and effluent concentrations reported as being below acceptable detection limits.

Annual discharge or license quantity fees may be calculated using either pounds of pollutants or allowable flow, as is most appropriate for the circumstances of a particular discharge category, situation or location. License limits may be supplemented by applications and related supporting materials when necessary to calculate effluent quantities or concentrations.'

Further amend the bill in Part B in section 8 in that part designated "§353-B." by inserting after subsection 5 the following:

'6. Initial year fee rates. Notwithstanding subsection 2, paragraph B, during the first year after the effective date of this section, the following discharge fee rates must be used in computing annual waste discharge license fees. All other provisions of subsection 2 apply.

<u>License group or type of pollutant</u>	<u>Rate</u>
<u>Conventional pollutants, license rate</u>	<u>\$1.00 per pound</u>
<u>Conventional pollutants, discharge rate</u>	<u>\$1.90 per pound</u>
<u>Conventional pollutants, primary treatment only</u>	<u>\$0.45 per pound</u>
<u>Conventional pollutants, food handling or packing facilities</u>	<u>\$0.04 per pound</u>
<u>Nonconventional or toxic pollutants</u>	<u>Variable*</u>
<u>Heat (as licensed flow x temperature x 8.34</u>	<u>\$0.036 per million</u>
	<u>BTU)</u>
<u>Flow: fish rearing facilities</u>	<u>\$36 per million</u>
	<u>gallons</u>
<u>Flow: combined sewer overflows</u>	<u>\$45 per million</u>
<u>(based on treatment facility design)</u>	<u>gallons</u>

2	<u>Flow: nonprocess from industrial or commercial sources</u>	<u>\$140 per million gallons</u>
4	<u>Flow: publicly owned treatment facilities</u>	<u>\$500 per million gallons</u>
6		
8	<u>Flow: process from industrial or commercial sources</u>	<u>\$500 per million gallons</u>
10	<u>Flow: treated storm water</u>	<u>\$14 per million gallons</u>
12		
14	<u>Flow: sanitary from commercial sources</u>	<u>\$0.02 per gallon</u>
16	<u>Flow: sanitary from residential sources</u>	<u>\$0.02 per gallon</u>
18	<u>Flow: sanitary from publicly owned facilities less than 6,000 gallons per day</u>	<u>\$0.02 per gallon</u>
20		

22 *The license rate per pound is \$8.40 divided by the licensed
24 effluent concentration. The discharge rate per pound is \$16.80
 divided by the licensed effluent concentration.'

26 Further amend the bill in Part B in section 9 in the next to
28 the last line (page 28, line 43 in L.D.) by striking out the
 following: "acknowledge" and inserting in its place the
30 following: 'acknowledged'

32 Further amend the bill in Part B by striking out all of
 sections 10 and 11 and inserting in their place the following:

34 '**Sec. B-10. Report.** The Department of Environmental
36 Protection shall monitor the effectiveness of the waste discharge
 licensing program and report to the joint standing committee of
38 the Legislature having jurisdiction over natural resource matters
 by January 1, 2001 concerning significant aspects of the
40 program. The report must address the department's handling of
 increased responsibilities as a result of being delegated the
42 National Pollutant Discharge Elimination System permit program by
 the United States Environmental Protection Agency, including the
44 following issues: timely permit issuance, effluent toxics,
 technical assistance, data management, customer service,
46 compliance and enforcement. The report may include
 recommendations concerning any necessary statutory changes. The
48 department shall consult with representatives of the regulated
 community and other interested groups when preparing the report.

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

**Maine Environmental Protection
Fund**

Positions - Legislative Count	(8.000)
Personal Services	\$192,584
All Other	30,000

Provides for the allocation of funds for 2 Clerk Typist III positions, 4 Environmental Specialist II positions, one Environmental Specialist III position and one Assistant Engineer position and operational support funds.

**DEPARTMENT OF ENVIRONMENTAL
PROTECTION
TOTAL**

\$222,584

Sec. 12. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

ATTORNEY GENERAL, DEPARTMENT OF THE

Administration - Attorney General

Positions - Legislative Count	(0.500)
Personal Services	\$21,935
All Other	3,748

Allocates funds for a part-time Assistant Attorney General position to handle the expected increase in workload.

**DEPARTMENT OF THE ATTORNEY GENERAL
TOTAL**

\$25,683'

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 summary the following:

FISCAL NOTE

1998-99

APPROPRIATIONS/ALLOCATIONS

Other Funds \$248,267

REVENUES

Other Funds \$421,031

This bill includes an Other Special Revenue allocation of \$222,584 in fiscal year 1998-99 for the Department of Environmental Protection for one additional Assistant Engineer position, one additional Environmental Specialist III position, 2 additional Clerk Typist III positions, 4 additional Environmental Specialist II positions and operating costs necessary to accomplish delegation of the Federal Discharge Licensing and Management Program to the State of Maine. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be approximately \$258,495 and \$268,435, respectively.

Revising the waste discharge license fee system will increase license fee collections, increasing dedicated revenue to the Maine Environmental Protection Fund within the Department of Environmental Protection by \$395,348 in fiscal year 1998-99, \$502,925 in fiscal year 1999-2000 and \$522,482 in fiscal year 2000-01.

The Department of the Attorney General will require an additional Other Special Revenue allocation of \$25,683 in fiscal year 1998-99 for a part-time Assistant Attorney General position to handle the increase in workload. The estimated future costs in fiscal years 1999-2000 and 2000-01 will be approximately \$26,875 and \$28,190, respectively. The Department of the Attorney General will bill the Department of Environmental Protection for legal services rendered. The Department of Environmental Protection has adequate resources to transfer funds to cover this additional cost.

Increasing the minimum fines on certain Class E violations and the maximum civil penalties for parties that have a previous

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violation of the same law will increase General Fund revenue by minor amounts.'

SUMMARY

This amendment does the following.

1. It makes a technical change to the language in the bill regarding an affirmative defense for a violation of a wastewater discharge license resulting from an unavoidable malfunction.

2. It requires the Department of Environmental Protection to consult with the applicant for a discharge license and interested parties if the department establishes effluent limits on a case-by-case basis because no applicable standards exist.

3. It makes a technical change to the language in the bill regarding licenses to treat public water supplies with copper sulfate or related compounds.

4. It authorizes the Board of Environmental Protection rather than the Administrative Court to modify, revoke or suspend a waste discharge license.

5. It requires that rules adopted by the department relating to permits issued under the Federal Water Pollution Control Act comply with the federal act.

6. It strikes out language in the bill relating to fee adjustments that was enacted in previous legislation.

7. It makes changes to the fee structure for annual waste discharge licenses to reflect General Fund support for the program.

8. It establishes lower discharge fee rates to be used in computing waste discharge license fees during the first year after enactment of the legislation to reflect the deferred hiring of 2 positions.

9. It requires the department to submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 1, 2001 concerning the waste discharge licensing program and the department's handling of its increased responsibilities under the program.

10. It changes the allocation section to reflect General Fund support for the program.