

# MAINE STATE LEGISLATURE

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DATE: 3-10-98

(Filing No. H-866)

NATURAL RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1496, L.D. 2095, Bill, "An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Remediation and Waste Management"

Amend the bill in section 2 in subsection 3 by striking out all of the last blocked paragraph (page 1, lines 45 to 48 in L.D.) and inserting in its place the following:

'The license fee for a solid waste facility must be paid annually. Failure to pay the annual fee within 30 days of the anniversary date of a license is sufficient grounds for modification, revocation or suspension of the license under section 341-D, subsection 3, paragraph A.'

Further amend the bill in section 3 by striking out all of subsection 5 (page 2, lines 4 to 11 in L.D.) and inserting in its place the following:

'5. Mandatory facility replacement. Upon the expiration date of a manufacturer's warranty for a tank installed in accordance with subsection 1 or for an existing facility installed after 1985, the tank and its associated piping must be removed from service and properly abandoned in accordance with section 566-A.

This subsection does not apply until January 1, 2008 to a tank installed before December 31, 1985 that has been retrofitted to meet the requirements of subsections 1-A and 1-B.'

COMMITTEE AMENDMENT

## COMMITTEE AMENDMENT "A" to H.P. 1496, L.D. 2095

Further amend the bill in section 11 in subsection 17-B in the last line (page 4, line 21 in L.D.) by striking out the following: "lead-contaminated" and inserting in its place the following: 'lead-based'

Further amend the bill in section 13 in subsection 27 in the next to the last line (page 4, line 43 in L.D.) by striking out the following: "investigation" and inserting in its place the following: 'investigation assessment'

Further amend the bill by inserting after section 14 the following:

**Sec. 15. 38 MRSA §1310-S, sub-§2**, as amended by PL 1993, c. 378, §8, is further amended to read:

**2. Public hearing.** The department may hold an adjudicatory public hearing within the municipality in which the facility may be located or in a convenient location in the vicinity of the proposed facility. The department shall hold an adjudicatory public hearing on an application for a new or expanded commercial or state-owned solid waste disposal facility that accepts special waste upon request from a resident or a property owner in the municipality in which the proposed facility is located. The hearing must be conducted in accordance with Title 5, chapter 375, subchapter IV. Administrative expenses of a hearing held pursuant to this subsection must be paid for by the applicant as provided in department rules.

**Sec. 16. 38 MRSA §1310-S, sub-§3-A** is enacted to read:

**3-A. Automatic abutter intervenor status.** An abutting property owner has intervenor status in any public hearing held pursuant to subsection 2 if the property owner requests it no later than 10 days following public notice of the hearing. Immediately upon the commissioner's receipt of such a request, the intervenor has all rights and responsibilities commensurate with this status. A party granted intervenor status under this subsection is not eligible for intervenor assistance grants or reimbursements pursuant to subsection 4.

For purposes of this subsection, "abutting property owner" means an owner of property that is both contiguous to the property on which a facility is proposed and within 1 mile of the location of the proposed facility site, including property directly across a public or private right-of-way.'

Further amend the bill in section 15 in subsection 4 in the 8th and 9th lines from the end (page 5, lines 34 and 35 in L.D.) by striking out the following: "in the same manner as provided

under section 1310-T" and inserting in its place the following:  
'as provided in department rules'

Further amend the bill by striking out all of section 18 and inserting in its place the following:

'Sec. 18. Rule-making authority. Rules adopted by the Board of Environmental Protection pursuant to the Maine Revised Statutes, Title 38, section 1310-S, subsection 2 and section 1319-O, subsection 2, paragraph A are routine technical rules under Title 5, chapter 375, subchapter II-A.

Sec. 19. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 38, section 570-K, subsection 2 takes effect July 1, 1999.'

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

Extending the repeal date of certain fees for the Maine Environmental Protection Fund will authorize the Department of Environmental Protection to collect an estimated \$1,499,965 in dedicated revenues for the fund in fiscal year 1998-99. Currently budgeted allocations and revenues for fiscal year 1998-99 assumed the continuation of these revenues and do not accurately reflect the statutory repeal date for these particular fees. As a result no adjustments to allocations or budgeted revenue is required at this time.

The Department of Environmental Protection will incur some minor additional costs to administer certain regulatory requirements pertaining to the Bureau of Remediation and Waste Management and to hold certain adjudicatory public hearings. These costs can be absorbed within the department's existing budgeted resources. The department will realize some minor additional dedicated revenue from the authority to collect reimbursement for the costs of holding these adjudicatory hearings.

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$86.45 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may

2 result in a jail sentence and the resulting costs to the county  
jail system are expected to be insignificant.

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

## 12 SUMMARY

14 This amendment clarifies that solid waste facility license  
16 fees must be paid annually and that failure to pay the fee within  
30 days of the anniversary date of the license is grounds for  
18 modification, suspension or revocation of the license in  
accordance with the Maine Administrative Procedure Act.

20 The amendment clarifies a provision in the bill that  
22 requires that tanks installed before December 31, 1985 be removed  
from service upon the expiration of the manufacturer's warranty,  
24 but not until January 1, 2008 if the tanks meet requirements for  
leak detection and overflow and spill prevention equipment.

26 The amendment makes minor changes to the definitions of  
28 "lead hazard" and "risk assessment," as amended in the bill.

30 The amendment requires the Department of Environmental  
32 Protection to hold a public hearing on an application for the  
construction or expansion of a commercial or a state-owned solid  
waste disposal facility that accepts special waste, if a hearing  
34 is requested by a resident or a property owner in the  
municipality in which the proposed facility is located, and  
36 requires the applicant to pay the administrative expenses of the  
hearing. The amendment grants automatic intervenor status in a  
38 public hearing on an application for a license to an owner of  
property abutting a proposed solid waste disposal facility site.  
40 The amendment clarifies that an applicant for a solid waste  
disposal facility license pays for municipal intervenor financial  
42 assistance grants according to department rules.

44 The amendment strikes a change to an effective date that was  
not intended to be in the bill. The amendment delays the  
46 effective date of the section of the bill that prohibits the  
operation of aboveground oil storage facilities constructed  
48 before July 1, 1985 that have nonconforming underground piping.

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2 This delay gives the owners or operators of such facilities until  
July 1, 1999 to replace the nonconforming underground piping. It  
4 also adds a fiscal note to the bill.

**COMMITTEE AMENDMENT**