

MAINE STATE LEGISLATURE

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17
R. & S.

L.D. 2269

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NATURAL RESOURCES

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STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 856, L.D. 2269, Bill, "An Act to Reduce Mercury Use and Emissions"

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 38 MRSA §420, sub-§1, ¶A-1 is enacted to read:

A-1. Notwithstanding paragraph A, after January 1, 2000 a discharge from any facility subject to paragraph A must be less than 454 grams, or one pound, per year and after January 1, 2002 such a discharge must be less than 45 grams, or 0.1 pound, per year. This paragraph is repealed January 1, 2004.'

Further amend the bill by striking out all of sections 3 to 5 and inserting in its place the following:

'Sec. 3. 38 MRSA §585-B, sub-§5 is enacted to read:

5. Standards for mercury. Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000 and 22.7 kilograms, or 50 pounds, per year after January 1, 2004. Compliance with these limits must be specified in the license of the air emission source. The board shall establish by rule testing protocols and measurement methods for emissions sources for which the board has not established such protocols and methods for determining compliance with the emission standard for

mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter II-A.

An air emission source may apply to the board for an extension or modification of the 22.7-kilogram, or 50-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, 2003 for a 6-month extension of the January 1, 2004 deadline to meet the 22.7-kilogram, or 50-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, 2003 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the 45.4-kilogram, or 100-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.'

Further amend the bill by inserting after section 6 the following:

'Sec. 7. Report; mercury-added products. The Land and Water Resources Council shall submit a report, together with implementing legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 1, 1999 on the following:

1. The establishment of a collection system through which mercury-added products sold or offered for sale in the State can be returned for recycling to the manufacturer of the products;

2. The labeling of products sold at retail that contain mercury, including thermostats, thermometers, electrical switches or other electrical devices, lighting devices, batteries and

2 medical or scientific instruments. The labeling must be designed
to inform the user that the product contains mercury and that the
4 manufacturer is required to recycle the product; and

6 3. The imposition of a fee on the sale of mercury-added
products in the State, with an evaluation of options for the use
of revenues from the fee, including reimbursing resource recovery
8 facilities for the expense incurred to meet mercury emissions
limits and research and public education on reducing the sale of
10 mercury-added products in the State and on reducing the release
of mercury as a result of the combustion of wood or wood chips.

12 **Sec. 8. Report; mercury discharges.** The Department of
14 Environmental Protection shall evaluate the current discharge of
mercury into the waters of the State and the current and
16 potential methods for testing mercury discharges. The department
shall report by February 1, 1999 to the joint standing committee
18 of the Legislature having jurisdiction over natural resources
matters on the following: facilities that are not in compliance
20 with the water quality standards for mercury or with the Maine
Revised Statutes, Title 38, section 420; the results of effluent
22 testing using more refined testing protocols; an evaluation of
the sources of mercury in the discharge of facilities that have
24 detectable quantities of mercury, including a review of
incidental sources of mercury; the status of the United States
26 Environmental Protection Agency's approval of effluent testing
protocols; and the levels of natural concentrations of mercury in
28 receiving waters.'

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

34 Further amend the bill by inserting at the end before the
summary the following:

36
38 **FISCAL NOTE**

40 This bill may increase prosecutions for Class E crimes. If
a jail sentence is imposed, the additional costs to the counties
42 are estimated to be \$86.45 per day per prisoner. These costs are
not reimbursed by the State. The number of prosecutions that may
44 result in a jail sentence and the resulting costs to the county
jail system are expected to be insignificant.

46 The additional workload and administrative costs associated
48 with the minimal number of new cases filed in the court system
can be absorbed within the budgeted resources of the Judicial
50 Department. The collection of additional fines may increase
General Fund revenue by minor amounts.

2 Any additional enforcement costs can be absorbed by the
4 Department of Environmental Protection utilizing existing
budgeted resources.

6 The member agencies of the Land and Water Resources Council
8 will incur some minor additional costs to develop strategies for
future economic development in Orrington and to submit a required
10 report to the Legislature. These costs can be absorbed within
the respective agencies' existing budgeted resources.

12 The Department of Environmental Protection will incur some
14 minor additional costs to submit a required report to the
Legislature. These costs can be absorbed within the department's
16 existing budgeted resources.'

18 SUMMARY

20 This amendment does the following.

22 It changes the mercury discharge limit for a facility that
24 on January 1, 1971 was discharging mercury in connection with an
industrial process by maintaining the provision in the bill that
26 requires the discharge to be less than one pound per year after
January 1, 2000 and amending the bill to require the discharge to
28 be less than 1/10 of a pound after January 1, 2002. It maintains
the provision in the bill that allows no discharge from such a
30 facility after January 1, 2004 that increases the natural
concentration of mercury in the receiving waters.

32 It strikes from the bill the provision requiring an
34 affirmative determination by the Board of Environmental
Protection that a facility using mercury in its industrial
36 process has operated and will operate in substantial compliance
with environmental requirements or the facility must discontinue
38 its use of mercury after April 1, 2000.

40 It amends the provision in the bill that establishes air
emission limits to allow an air emission source to apply to the
42 board for a 6-month extension of the January 1, 2004 deadline for
limiting mercury emissions to 50 pounds per year or to apply to
44 the board for a license modification establishing an alternative
emission limit for mercury. It requires the board to grant such
46 a license modification if it finds that the proposed limit meets
the most stringent emission limitation that is achievable and
48 compatible with the class of source, considering economic
feasibility. The amendment also extends the compliance date for
the 100-pound emissions limit to December 19, 2000 for a resource

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2 recovery facility that is subject to an emissions limit for
mercury that is adopted by rule by the board.

4 The amendment strikes from the bill the provision requiring
6 toxics use reductions for mercury.

8 The amendment requires the Land and Water Resources Council
to submit a report and implementing legislation by January 1,
10 1999 to the joint standing committee of the Legislature having
jurisdiction over natural resources matters on issues relating to
mercury-added products sold in the State.

12 The amendment also requires the Department of Environmental
14 Protection to submit a report by February 1, 1999 to the joint
standing committee of the Legislature having jurisdiction over
16 natural resources matters on compliance with the water quality
standards for mercury, the results of effluent testing using more
18 refined testing protocols and the status of approval of those
protocols and the levels of natural concentrations of mercury in
20 receiving waters.