



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2038

S.P. 716

In Senate, March 24, 1999

An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges.

Reference to the Committee on Natural Resources suggested and ordered printed.

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JOY J. O'BRIEN Secretary of the Senate

Presented by Senator KONTOS of Cumberland. Cosponsored by Representative: DAIGLE of Arundel.

2	Be it enacted by the People of the State of Maine as follows:
2 4	Sec. 1. 38 MRSA §420, first ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §37, is further amended to read:
6 8	No <u>A</u> person, firm, corporation or other legal entity shall <u>may not</u> place, deposit, discharge or spill, directly or indirectly, into the ground water, inland surface waters or tidal
10	waters of this State, or on the ice thereof, or on the banks thereof so that the same may flow or be washed into such waters,
12	or in such manner that the drainage therefrom may flow into such waters, any of-the-following substances; as provided in this section.
14 16	Sec. 2. 38 MRSA §420, sub-§1, as amended by PL 1997, c. 722, §§1 and 2, is repealed.
18	Sec. 3. 38 MRSA §420, sub-§1-A is enacted to read:
20	1-A. Mercury. Any person, firm, corporation or other legal entity that on January 1, 1971 was discharging mercury or any
22	compound containing mercury, whether organic or inorganic, in connection with an industrial process and on or before December
24	31, 1971 filed with the board a statement indicating the amount of the substance discharged on that date shall, after January 1,
26 28	2000, discharge less than 454 grams, or one pound, per year and, after January 1, 2002, less than 45 grams, or 0.1 pound, per year.
30	Discharges of mercury or any compound containing mercury, whether organic or inorganic, by other persons, firms, corporations or other legal entities are regulated as provided in subsection 2.
32 34	Notwithstanding the other provisions of this subsection, whenever the commissioner finds that a concentration of 10 parts per
36	billion or greater of mercury is present in any waters of this State or that danger to public health exists due to mercury concentrations of less than 10 parts per billion in any waters of
38	this State, the commissioner may issue to all persons discharging to such waters an emergency order prohibiting or curtailing the
40	further discharge of mercury or compounds containing mercury. These findings and the order must be served in a manner similar
42 44	to that described in section 347-A, subsection 3 and the parties affected by that order have the same rights and duties as are described in section 347-A, subsection 3.
46	Sec. 4. 38 MRSA §420, sub-§2, as amended by PL 1997, c. 444, §7, is further amended by amending the first paragraph to read:

2 2. Toxic or hazardous substances. Any-other-texie-substance in-any-amount-or-concontration-greater-than-that-idontified-or regulated, - including - complete - prohibition - of - such - substance, - by 4 the-beard. Except as provided in subsection 1-A, the board may identify and regulate or prohibit any toxic substance. The 6 discharge of any toxic substance in excess of the amount set by 8 the board is prohibited. In identifying and regulating such toxic substances, the board shall take into account the toxicity 10 of the substance, its persistence and degradability, the usual or potential presence of any organism affected by such substance in 12 any waters of the State, the importance of such organism and the nature and extent of the effect of such substance on such 14 organisms, either alone or in combination with substances already in the receiving waters or the discharge. As used in this 16 subsection, "toxic substance" shall-mean means those substances or combination of substances, including disease --- eausing disease-causing agents, which that after discharge or 18 upon exposure, ingestion, inhalation or assimilation into any 20 including humans either directly through organism, the environment or indirectly through ingestion through food chains, 22 will, on the basis of information available to the board either alone or in combination with other substances already in the 24 receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological 26 malfunctions, including malfunctions in reproduction, or physical deformations in such erganism organisms or their offspring. 28

- Sec. 5. 38 MRSA §420, sub-§2, ¶A, as enacted by PL 1989, c. 30 856, §2 and affected by §7, is amended to read:
- A. Except as naturally occurs or as provided in paragraphs B and C, the board shall regulate toxic substances, including mercury, except for discharges of mercury pursuant to subsection 1-A, in the surface waters of the State at the levels set forth in federal water quality criteria as established by the United States Environmental Protection
 Agency pursuant to the Federal Water Pollution Control Act, Public Law 92-500, Section 304(a), as amended.
 - **SUMMARY**

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- This bill makes the following changes to the laws governing the discharge of mercury to the waters of the State:
- It retains the mass-based effluent limits for any legal
 entity that on January 1, 1971 was discharging mercury in connection with any industrial process and on or before December
 31, 1971 filed with the Board of Environmental Protection a statement indicating the amount so discharged;

 It amends existing law governing the discharge of mercury and regulates the discharge of mercury in accordance with
 the levels set forth in federal water quality criteria as established by the United States Environmental Protection Agency
 pursuant to the Clean Water Act; and

8 3. It preserves the Board of Environmental Protection's authority to regulate any toxic substance, including mercury, in
 10 any amount or concentration, including the complete prohibition of such substance based on sound risk assessment through its
 12 rulemaking powers.