

MAINE STATE LEGISLATURE

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108

L.D. 2084

DATE: 4/27/00

(Filing No. S-772)

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STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 734, L.D. 2084, Bill, "An Act to Reduce the Release of Mercury into the Environment from Consumer Products"

Amend the amendment by striking out everything after the title and before the summary and inserting in its place the following:

'Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 5 MRSA §12004-I, sub-§24-A is enacted to read:

24-A. Mercury Legislative 38 MRSA
Environment: Products Per Diem §1670
Natural Advisory and Expenses
Resources Committee for
Legislators
and Expenses
Only for
Certain Members

Sec. 2. 38 MRSA c. 16-B is enacted to read:

CHAPTER 16-B

MERCURY-ADDED PRODUCTS AND SERVICES

§1661. Definitions

1. Mercury-added product. For the purposes of this chapter,

SENATE AMENDMENT

2 unless the context otherwise indicates, "mercury-added product"
3 means any of the following items if it contains mercury added
4 during manufacture:

6 A. A thermostat or thermometer;

8 B. An electrical switch, individually or as part of another
9 product;

10 C. A medical or scientific instrument;

12 D. An electric relay or other electrical device, excluding
13 an electrical device that is in a mercury-added lamp; and

14 E. A lamp.

16 **§1662. Labeling and consumer information**

18 **1. Labeling required for certain products.** Effective
20 January 1, 2002, a manufacturer may not sell at retail in this
21 State or to a retailer in this State, and a retailer may not
22 knowingly sell, a mercury-added product unless the item is
23 labeled pursuant to this subsection. The label must clearly
24 inform the purchaser or consumer that mercury is present in the
25 item and that the item may not be disposed of or placed in a
26 waste stream destined for disposal until the mercury is removed
27 and reused, recycled or otherwise managed to ensure that it does
28 not become part of solid waste or wastewater. Manufacturers
29 shall affix to mercury-added products labels that conform to the
30 requirements of this subsection.

32 The board shall adopt rules to establish standards for affixing
33 labels to the product and product package. The rules must strive
34 for consistency with labeling programs in other states and
35 provide for approval of alternative compliance plans by the
36 department. Rules adopted pursuant to this section are routine
37 technical rules as defined in Title 5, chapter 375, subchapter
38 II-A.

40 This subsection does not apply to mercury-added lamps.

42 **2. Mercury-added lamps; large use applications.** A person
43 who sells mercury-added lamps to the owner or manager of an
44 industrial, commercial or office building or to any person who
45 replaces or removes from service outdoor lamps that contain
46 mercury shall clearly inform the purchaser in writing on the
47 invoice for the lamps or in a separate document that the lamps
48 contain mercury, a hazardous substance that is regulated by
49 federal and state law, and that they may not be placed in solid
50 waste destined for disposal. Retail establishments that

2 incidentally sell mercury-added lamps to the specified purchasers
3 are exempt from the requirements of this subsection.

4 A person who contracts with the owner or manager of an
5 industrial, commercial or office building or with a person
6 responsible for outdoor lighting to remove from service
7 mercury-added lamps shall clearly inform in writing the person
8 for whom the work is being done that the lamps being removed from
9 service contain mercury and what the contractor's arrangements
10 are for the management of the mercury in the removed lamps.

12 **§1663. Disposal ban**

14 After July 15, 2002, a person may not knowingly place a
15 mercury-added product in solid waste for disposal in a solid
16 waste disposal facility. This section may not be construed to
17 affect existing laws, rules or regulations governing disposal of
18 mercury-added products prior to July 15, 2002.

20 **§1664. Source separation**

22 **1. Removal from service; products containing mercury.** When
23 a mercury-added product is removed from service, the mercury in
24 the item must be reused, recycled or otherwise managed to ensure
25 compliance with section 1663.

26 A person who is in the business of replacing or repairing a
27 mercury-added product in households shall ensure, or deliver the
28 item to a facility that will ensure, that the mercury contained
29 in an item that is replaced or repaired is reused, recycled or
30 otherwise managed in compliance with section 1663.

32 **2. Thermostats.** A manufacturer of thermostats that contain
33 mercury or a manufacturer of thermostats that may replace
34 thermostats that contain mercury shall, in addition to the
35 requirements of section 1662, provide incentives for and
36 sufficient information to purchasers and consumers of the
37 thermostats for the purchasers or consumers to ensure that
38 mercury in thermostats being removed from service is reused,
39 recycled or otherwise managed in compliance with section 1663. A
40 manufacturer that has complied with this subsection is not liable
41 for improper disposal by purchasers or consumers of thermostats.
42 Manufacturer collection programs conducted in accordance with
43 universal waste rules adopted by the department meet the
44 requirements of this subsection.

46 **§1665. Automobile component parts**

48 Notwithstanding sections 1662 and 1664, these sections do
49 not apply to mercury-added products, including mercury-added
50 products.

2 lamps, that are components in automobiles until July 15, 2002. A
3 plan for compliance with these sections as they relate to
4 automobile components must be developed pursuant to this section.

6 By January 1, 2001, automobile manufacturers that sell
7 automobiles at retail in this State or to a retailer in this
8 State shall submit proposed alternative compliance plans to the
9 department. By January 1, 2002, the department shall submit to
10 the joint standing committee of the Legislature having
11 jurisdiction over natural resources matters a plan for the
12 labeling and source separation of automobile component parts to
13 meet the requirements in sections 1662 and 1664. The department
14 shall develop the plan in consultation with automobile
15 manufacturers, automobile dismantlers, automobile recyclers and
16 other interested parties. The plan may provide for alternative
17 compliance plans for labeling and must provide for the safe
18 removal and management of mercury-added parts prior to the
19 shredding of vehicles. The department shall also develop, in
20 consultation with the interested parties, an assessment of
21 whether and how mercury switches or other electrical devices in
22 automobile components should be added to the universal waste
23 rules adopted by the board and submit the assessment with the
24 plan.

26 In deciding whether to approve an alternative compliance
27 plan for labeling of automobile components, the department may
28 consider the extent to which the plan provides for identification
29 of mercury-added components in vehicles assembled before July 15,
30 2002.

32 **§1666. Household hazardous waste exemption**

34 A person who uses mercury-added products in that person's
35 home is not subject to the provisions of section 1663 or 1664
36 until January 1, 2005 with respect to those products the person
37 uses in that person's home and is not subject to fines or
38 penalties for noncompliance with the provisions of section 1663
39 or 1664 with respect to those products the person uses in that
40 person's home.

42 **§1667. Dental procedures**

44 By July 15, 2002, the department shall work with dentists
45 and other interested parties to develop a pollution prevention
46 plan for mercury from dental procedures that provides for
47 reasonable measures to reduce mercury pollution from dental
48 procedures and related sources. The plan must include options
49 and strategies for implementing source reduction.

50 **§1668. Education program**

2 The department and the Executive Department, State Planning
3 Office shall implement an education program relating to
4 mercury-added products no later than January 1, 2001. The
5 program must provide information to the public about labeled
6 mercury-added products, the requirements of the law regarding the
7 source separation of waste mercury-added products and collection
8 programs that are available to the public.

10 **§1669. Technical assistance to municipalities**

12 The department shall coordinate with the Executive
13 Department, State Planning Office to assist interested
14 municipalities and regional associations in developing collection
15 programs for mercury-added products.

16 **§1670. Mercury Products Advisory Committee**

18 The Mercury Products Advisory Committee, established by
19 Title 5, section 12004-I, subsection 24-A and referred to in this
20 section as the "committee," shall advise the department, the
21 Executive Department, State Planning Office and the Legislature
22 on further actions needed to prevent and reduce environmental
23 releases of mercury from consumer products.

24 1. Appointment; composition. The committee consists of the
25 following 13 members:

26 A. Two members from the Senate appointed by the President
27 of the Senate. When making the appointments, the President
28 of the Senate shall give preference to members from the
29 joint standing committee of the Legislature having
30 jurisdiction over natural resources matters;

31 B. Two members from the House of Representatives appointed
32 by the Speaker of the House. When making the appointments,
33 the Speaker of the House shall give preference to members
34 from the joint standing committee of the Legislature having
35 jurisdiction over natural resources matters;

36 C. Four members representing the business community, at
37 least one of whom is an owner or represents an owner of a
38 small business, appointed by the Governor;

39 D. Two members representing environmental organizations,
40 appointed by the Governor;

41 E. Two members representing municipalities, appointed by
42 the Governor; and

2 F. One member representing the general public, appointed by
the Governor.

4 2. Terms. Except for the Legislators, who serve terms
6 coincident with their legislative terms, all members are
appointed for 3-year terms. A vacancy must be filled by the same
8 appointing authority that made the original appointment.
Appointed members may not serve more than 2, 3-year terms.

10 3. Compensation. Legislative members are entitled to
12 receive the legislative per diem, as defined in Title 3, section
2, and to reimbursement for expenses according to Title 5,
14 section 12004-I, subsection 24-A. Public members not otherwise
compensated by their employers or other entities whom they
16 represent are entitled to reimbursement of necessary expenses
incurred for their attendance at authorized meetings of the
18 committee.

20 4. Quorum; actions. A quorum is a majority of the members
22 of the committee. An affirmative vote of the majority of the
members present at a meeting is required for any action. Action
may not be considered unless a quorum is present.

24 5. Chairs. The first-appointed Senate member is the Senate
26 chair of the committee and the first-appointed House of
Representatives member is the House chair of the committee.

28 6. Meetings. The committee shall meet at least 4 times per
30 year and at any time at the call of the chairs or upon written
request to the chairs by 4 of the voting members.

32 7. Staff support. The commissioner shall provide the
34 committee with staff support.

36 8. Duties; powers. The committee shall:

38 A. Provide assessment, advice and recommendations on
emerging policy concerns or on adjustments to existing
40 programs related to mercury-added products;

42 B. Assess the feasibility of establishing, and foster
establishment if possible, of consumer education and
44 collection programs for mercury-added products that would
achieve, but not be limited to, the following:

46 (1) Contracts by waste management firms that would
48 provide comprehensive collection, transportation,
storage, record keeping and recycling of mercury-added
50 products used by industrial, commercial, office and
other large users;

2 (2) Recovery and recycling of at least 70% of the
4 mercury-added lamps in the State;

6 (3) Education and outreach programs to promote the use
8 of energy-saving fluorescent lighting, the availability
10 of waste management service contracts for recycling of
12 mercury-added lamps and other mercury-added products
14 and the environmental importance and market
16 availability of low-mercury models of fluorescent
18 lamps; and

20 (4) Conversion of at least 70% of the mercury-added
22 lamps in the State to low-mercury models;

24 C. Report annually beginning January 15, 2002 to the joint
26 standing committee of the Legislature having jurisdiction
28 over natural resources matters on the effectiveness and
30 extent of established programs for the collection,
32 transportation and recycling of mercury-added products and
34 on the performance of such systems in achieving the goals
36 identified in paragraph B;

38 D. Include in its 2002 annual report an assessment of
40 whether and how mercury switches or other electrical
42 devices, other than those in automobile components, should
44 be added to the universal waste rules adopted by the board;
46 and

48 E. Include in its 2004 annual report an assessment and
50 recommendations relating to collection and recycling
 programs for mercury-added products, including the following:

(1) An assessment of how well collection and recycling
 programs in the State are performing in comparison to
 programs established in other states with
 recommendations for improvements;

(2) An assessment of existing programs and
 infrastructure, and the costs and feasibility of
 expanded programs and infrastructure, for the
 collection and recycling of mercury-added products used
 by municipalities and households, with recommendations
 on whether additional municipal and regional solid
 waste collection facilities should be established to
 facilitate residential and municipal recycling of
 mercury-added products; and

(3) Recommendations on whether manufacturers of
 mercury-added products should be required to establish

2 programs for collection from users. Any such
3 recommendation should be based on an assessment of the
4 effectiveness of fee-for-service private-sector
5 programs that may have been established for the
6 collection, transportation and recycling of
7 mercury-added products.

8 **9. Repeal date.** This section is repealed August 1, 2006.

10 **Sec. 3. 38 MRSA §2133, sub-§2-B,** as enacted by PL 1995, c.
11 465, Pt. A, §46 and affected by Pt. C, §2, is amended to read:

12 **2-B. Household hazardous waste collection.** The office may,
13 within available resources, award grants to eligible
14 municipalities, regional associations, sanitary districts and
15 sewer districts for household hazardous waste collection and
16 disposal programs. In implementing this program, the office
17 shall attempt to:

18
19 A. Coordinate the household hazardous waste collection
20 programs with overall recycling and waste management;

21
22 B. Encourage regional economies of scale;

23
24 C. Coordinate programs between private and public
25 institutions; and

26
27 D. Maximize opportunities for federal grants and pilot
28 programs; and

29
30 E. By January 1, 2002 and as necessary thereafter, fund
31 capital improvements and operating expenses to facilitate
32 the development of collection programs throughout the State
33 for hazardous waste that is universal waste, as identified
34 in board rules, generated by households, small-quantity
35 generators, public schools and municipalities.

36
37 At a minimum, the office shall award grants to public schools and
38 municipalities for reasonable costs incurred as a result of
39 managing waste mercury-added products generated by those public
40 schools and municipalities, in compliance with the requirements
41 in sections 1663 and 1664, that would not otherwise be incurred
42 by complying with existing laws, rules or regulations as of July
43 15, 2002.

44
45 **Sec. 4. 38 MRSA §2304-A, sub-§2, ¶¶L and M,** as enacted by PL
46 1999, c. 348, §7, are amended to read:

47
48 L. Zinc emissions from tire burning; and

49
50

M. Sulfuric acid emissions from burning fuel that is approved by the department; and

Sec. 5. 38 MRSA §2304-A, sub-§2, ¶N is enacted to read:

N. Lamps, mercury-containing thermostats, polychlorinated biphenyl ballast and batteries defined as universal waste in 40 Code of Federal Regulations, Section 273.2.

Sec. 6. Report on mercury releases into environment and mercury collection programs; legislation. The Department of Environmental Protection shall submit a report by January 15, 2002 to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the status of mercury releases into the environment. The report must include the following: an inventory of mercury releases into the air, water and land; the sources of mercury released into the environment, including natural sources; a summary of regional efforts to reduce releases of mercury into the environment; an assessment of the feasibility of reducing mercury pollution from crematoriums; and an estimate of the economic impact of the ban on disposal of low-mercury lamps, including the economic impact related to infrastructure, training and education.

The department shall also include in its report an assessment of the extent to which the infrastructure has been developed to enable collection and recycling of mercury-added lamps.

The joint standing committee of the Legislature having jurisdiction over natural resources matters has authority to report out a bill to the Second Regular Session of the 120th Legislature relating to mercury releases and programs for the collection, transportation, recycling and disposal of mercury-added products.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

LEGISLATURE

Legislature

Personal Services	\$880
All Other	800

Provides funds for the per

2 diem and expenses of
3 legislative members of the
4 Mercury Products Advisory
Committee.

6 **LEGISLATURE**
7 **TOTAL**

_____ \$1,680

8
9 **Sec. 8. Allocation.** The following funds are allocated from
10 Other Special Revenue funds to carry out the purposes of this Act.

12 **2000-01**

14 **ENVIRONMENTAL PROTECTION,**
15 **DEPARTMENT OF**

16 **Solid Waste Management**

18 Positions - Legislative Count (2,000)
19 Personal Services \$95,838
20 All Other 20,000

22 Allocates funds for 2 additional
23 Environmental Specialist III positions and
24 operating costs necessary to administer a
25 mercury labeling program and other
26 mercury-related requirements and to provide
27 staffing assistance to the Mercury Products
28 Advisory Committee.

30 **DEPARTMENT OF ENVIRONMENTAL**
31 **PROTECTION**
32 **TOTAL**

_____ \$115,838' '

34
35
36 **FISCAL NOTE**

37 This amendment reduces the General Fund cost of the bill by
38 \$1,800 in fiscal year 2000-01.

39
40 As amended, this bill includes a General Fund appropriation
41 of \$1,680 in fiscal year 2000-01 for the Legislature for the per
42 diem and expenses of legislative members of the Mercury Products
43 Advisory Committee. The estimated future costs beginning in
44 fiscal year 2001-02 will be approximately \$2,180.

45
46 The additional costs associated with the payment of expenses
47 to members of the committee not otherwise compensated by their
48

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 734,
L.D. 2084

employers can be absorbed by the Legislature utilizing existing
budgeted resources.

SUMMARY

This amendment replaces the committee amendment. It changes the composition of the Mercury Products Advisory Committee to provide that, when making the appointments, the Speaker and the President shall give preference to members from the joint standing committee of the Legislature having jurisdiction over natural resources matters. It also provides for the reimbursement of necessary expenses incurred by public members who are not otherwise compensated by their employers.

SPONSORED BY:

(Senator MICHAUD)

COUNTY: Penobscot