

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

L.D. 1944

DATE: 3-18-02

(Filing No. H-937)

MAJORITY
NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1447, L.D. 1944, Bill, "An Act to Restrict the Availability of Products with Excessive Levels of Arsenic"

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

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, rules authorized in this bill pertaining to the regulation of fertilizers containing deleterious or harmful substances must be in effect as soon as practicable; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §743, first ¶, as amended by PL 1997, c. 454, §2, is further amended to read:

Each brand and grade of commercial fertilizer must be registered before being offered for sale, sold or distributed in this State. The application for registration must be submitted

2 to the commissioner on forms furnished by the commissioner and
must be accompanied by an annual fee of \$14 per plant food
4 element guaranteed. All registrations expire on December 31st or
in a manner consistent with the provisions as to license
6 expiration of the Maine Administrative Procedure Act, Title 5,
section 10002, whichever is later. The commissioner may issue a
8 registration for a one-year, 2-year or 3-year period.
Registrations for a period in excess of one year may only be
issued with the agreement of or at the request of the applicant.
10 The fee for a 2-year registration is 2 times the annual fee. The
fee for a 3-year registration is 3 times the annual fee. The
12 commissioner may ~~suspend, cancel or refuse to renew,~~ refuse to
register or renew or may suspend or cancel registration for
14 failure to comply with this subchapter or with rules adopted
pursuant to this subchapter. This refusal, suspension or
16 cancellation is considered rule-making as that term is defined in
the Maine Administrative Procedure Act, Title 5, chapter 375 and
18 notice and opportunity for a hearing must be provided in a manner
consistent with the Maine Administrative Procedure Act, Title 5,
20 chapter 375. The application must include the following
information:

22 **Sec. 2. 7 MRSA §743, sub-§4** is amended to read:

24 **4. Registrant's name and address.** The name and address of
26 the registrant; and

28 **Sec. 3. 7 MRSA §743, sub-§5** is enacted to read:

30 **5. Additional information.** Additional information as
32 required in rules adopted by the department.

34 **Sec. 4. 7 MRSA §747, sub-§2** is amended to read:

36 **2. Deleterious materials.** If it contains any material in
sufficient amount to be deleterious to growing plants or any
38 deleterious or harmful substances in sufficient amount to render
it injurious to beneficial plant life, animals, humans, aquatic
40 life, soil or water; or

42 **Sec. 5. Rules.** The Commissioner of Agriculture, Food and
Rural Resources shall adopt rules that list the additional
44 information that may be required when registering fertilizers
under the Maine Revised Statutes, Title 7, section 743,
46 subsection 5 and that list the type and amount of substances that
are considered deleterious under Title 7, section 747, subsection
48 2. In developing those rules, the commissioner shall review
standards for metals in fertilizers proposed by the Association
of American Plant Food Control Officials and other applicable
50 risk-based assessments of metals or other deleterious

or harmful substances and shall seek input on those standards and assessments from the Director of the Bureau of Health in the Department of Human Services. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Those rules must be adopted no later than 90 days after the effective date of this Act.

Sec. 6. Submission of rules for legislative review. The Commissioner of Agriculture, Food and Rural Resources shall submit 20 copies of the rules adopted under this Act to the joint standing committee of the Legislature having jurisdiction over agricultural matters no later than January 15, 2003. That committee shall review those rules in accordance with the provisions of the Maine Revised Statutes, Title 5, section 8072, subsections 4 and 5 and may report out legislation to the First Regular Session of the 121st Legislature on any matter pertaining to the information that may be requested by the Department of Agriculture, Food and Rural Resources when registering fertilizers or pertaining to adulterated commercial fertilizers.

Sec. 7. Application. Nothing in this Act may be construed to limit the authority of the Department of Environmental Protection to regulate the agronomic utilization of residuals under applicable provisions of the Maine Revised Statutes, Title 38 or under rules adopted by the Board of Environmental Protection regulating the agronomic utilization of residuals.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

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

FISCAL NOTE

The Department of Agriculture, Food and Rural Resources will incur some minor additional costs to adopt certain rules pertaining to the registration of fertilizers. These costs can be absorbed within the department's existing budgeted resources.

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

SUMMARY

2

This is the majority report of the Joint Standing Committee on Natural Resources.

4

6

This amendment replaces the bill. The amendment allows the Department of Agriculture, Food and Rural Resources to require additional information when registering fertilizers and expands what is considered an adulterated commercial fertilizer to include fertilizers containing deleterious or harmful substances in sufficient amount to render them injurious to beneficial plant life, animals, humans, aquatic life, soil or water.

8

10

12

14

The amendment requires the Commissioner of Agriculture, Food and Rural Resources to adopt routine technical rules within 90 days after the effective date of this bill that list the information that may be required by the department when registering fertilizer and that list the type and amounts of substances that are considered deleterious in adulterated commercial fertilizers. The amendment also requires the department to submit those rules to the joint standing committee of the Legislature having jurisdiction over agricultural matters in January of 2003 and allows that committee to report out legislation on matters pertaining to the information that may be requested by the department when registering fertilizers or pertaining to adulterated commercial fertilizers.

16

18

20

22

24

26

28

This amendment adds a new section stating that the changes to the agricultural laws pertaining to registering fertilizers and to the definition of adulterated fertilizers may not be construed to limit the authority of the Department of Environmental Protection to regulate the agronomic utilization of residuals under its laws or its rules.

30

32