

# MAINE STATE LEGISLATURE

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L.D. 1944

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MINORITY  
NATURAL RESOURCES

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

COMMITTEE AMENDMENT "B" 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 to the commissioner on forms furnished by the commissioner and must be accompanied by an annual fee of \$14 per plant food

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

20

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

22

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

26

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

28

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

30

**Sec. 4. 7 MRSA §747, sub-§§2 and 3** are amended to read:

32

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

38

**3. Other materials.** If it is found to contain any  
40 pulverized leather, hair, ground hoofs, horns, wool waste, peat,  
garbage tankage or any nitrogenous ingredients derived from any  
42 inert material whatsoever, unless the same has been so treated as  
to be available as plant food as determined by the methods  
44 adopted by the Association of Official Agricultural Chemists,  
without an explicit printed statement of fact, conspicuously  
46 affixed to the package of such fertilizer and accompanying and  
going with every lot or package of the same, in which fertilizer  
48 the above named materials aid in making up the required or  
guaranteed analysis; or

50

2                   **Sec. 5. 7 MRSA §747, sub-§4** is enacted to read:

4                   **4. Arsenic levels.** If it contains levels of total arsenic  
4                   in excess of 500 parts per million.

6                   **Sec. 6. Rules.** The Commissioner of Agriculture, Food and  
8 Rural Resources shall adopt rules that list the additional  
8 information that may be required when registering fertilizers  
10 under the Maine Revised Statutes, Title 7, section 743,  
10 subsection 5 and that list the type and amount of substances that  
12 are considered deleterious under Title 7, section 747, subsection  
12 2. In developing those rules, the commissioner shall review  
14 standards for metals in fertilizers proposed by the Association  
14 of American Plant Food Control Officials and other applicable  
16 risk-based assessments of metals or other deleterious or harmful  
16 substances and shall seek input on those standards and  
18 assessments from the Director of the Bureau of Health in the  
18 Department of Human Services. Rules adopted under this section  
20 are routine technical rules pursuant to Title 5, chapter 375,  
20 subchapter II-A. Those rules must be adopted no later than 90  
22 days after the effective date of this Act.

24                   **Sec. 7. Submission of rules for legislative review.** The  
24 Commissioner of Agriculture, Food and Rural Resources shall  
26 submit 20 copies of the rules adopted under this Act to the joint  
26 standing committee of the Legislature having jurisdiction over  
28 agricultural matters no later than January 15, 2003. That  
28 committee shall review those rules in accordance with the  
30 provisions of the Maine Revised Statutes, Title 5, section 8072,  
30 subsections 4 and 5 and may report out legislation to the First  
32 Regular Session of the 121st Legislature on any matter pertaining  
32 to the information that may be requested by the Department of  
34 Agriculture, Food and Rural Resources when registering  
34 fertilizers or pertaining to adulterated commercial fertilizers.

36                   **Sec. 8. Application.** Nothing in this Act may be construed to  
38 limit the authority of the Department of Environmental Protection  
38 to regulate the agronomic utilization of residuals under  
40 applicable provisions of the Maine Revised Statutes, Title 38 or  
40 under rules adopted by the Board of Environmental Protection  
42 regulating the agronomic utilization of residuals.

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

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

**FISCAL NOTE**

2

4 The Department of Agriculture, Food and Rural Resources will  
6 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.

8

10 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  
12 General Fund revenue by minor amounts.'

14

**SUMMARY**

16

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

20

22 This amendment is the same as the majority report except  
that it includes the provisions in the original bill that deemed  
fertilizers having more than 500 parts per million of arsenic as  
adulterated fertilizers.

24

26 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  
28 construed to limit the authority of the Department of  
Environmental Protection to regulate the agronomic utilization of  
30 residuals under its laws or its rules.