

# MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 378, L.D. 1158, Bill, "An Act To Protect Maine's Coastal Water"

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

Sec. 1. 38 MRSA §417, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and enacted by Pt. B, §34, is amended to read:

3. Refuse. Any scrap metal, junk, paper, garbage, septic tank septage, sludge, rubbish, old automobiles or similar refuse.

Sec. 2. 38 MRSA §423-D is enacted to read:

§423-D. Graywater and blackwater discharges from commercial passenger vessels

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Blackwater" means human bodily wastes and the wastes from toilets and other receptacles intended to receive or retain human bodily wastes.

B. "Coastal waters" means those portions of the Atlantic Ocean within the jurisdiction of the State and all other waters of the State subject to the rise and fall of the tide.

- 2           C. "Commercial passenger vessel" means a large or small  
3           commercial passenger vessel.
- 4
- 5           D. "Graywater" means galley, dishwasher, bath and laundry  
6           wastewater. "Graywater" does not include other wastes or  
7           waste streams.
- 8
- 9           E. "Large commercial passenger vessel" means a commercial  
10           passenger vessel that provides overnight accommodations for  
11           250 or more passengers for hire, determined with reference  
12           to the number of lower berths.
- 13
- 14           F. "No-discharge zone" means an area within coastal waters  
15           that has been designated by the United States Environmental  
16           Protection Agency pursuant to 33 United States Code, Section  
17           1322, to be an area in which discharge of blackwater is  
18           prohibited.
- 19
- 20           G. "Small commercial passenger vessel" means a commercial  
21           passenger vessel that provides overnight accommodations for  
22           fewer than 250 passengers for hire, determined with  
23           reference to the number of lower berths.
- 24
- 25           2. Licensing exemptions. A license is not required  
26           pursuant to section 413 prior to the discharge of graywater to  
27           coastal waters from:
- 28
- 29           A. A large commercial passenger vessel. This paragraph is  
30           repealed January 1, 2006;
- 31
- 32           B. A small commercial passenger vessel;
- 33
- 34           C. A commercial passenger vessel operated by the United  
35           States or a foreign government; or
- 36
- 37           D. A commercial passenger vessel if the discharge is made  
38           for the purpose of securing the vessel or saving life at  
39           sea, and as long as all reasonable precautions have been  
40           taken to prevent or minimize the discharge. A discharge as  
41           described in this paragraph must be reported in accordance  
42           with subsection 3.
- 43
- 44           3. Report of unauthorized discharge. Discharges of  
45           blackwater or graywater from a large commercial passenger vessel  
46           to coastal waters must be reported to the department as provided  
47           in this subsection.
- 48
- 49           A. The owner or operator of a large commercial passenger  
50           vessel that discharges blackwater within a no-discharge zone

2 or discharges blackwater in violation of federal law outside  
3 a no-discharge zone shall immediately report that discharge  
4 to the department. The owner or operator shall submit a  
5 written report concerning the discharge to the department  
6 within 30 days of the discharge.

7 B. Beginning January 1, 2006, the owner or operator of a  
8 large commercial passenger vessel that discharges graywater  
9 without a license or in a manner inconsistent with a license  
10 issued pursuant to section 413 shall immediately report that  
11 discharge to the department. The owner or operator shall  
12 also submit a written report concerning the discharge to the  
13 department within 30 days of the discharge.

14 **4. Certification or licensing.** Beginning January 1, 2006,  
15 the owner or operator of a large commercial passenger vessel  
16 shall:

17 A. Annually certify to the department that it does not  
18 intend to discharge graywater or a mixture of graywater and  
19 blackwater to coastal waters and will act in accordance with  
20 an agreement entered into with the department. The  
21 agreement must address areas such as ownership; type of  
22 treatment systems; use and management of systems; types of  
23 waste streams generated; timely reporting concerning the  
24 type, amount and general location of discharges to coastal  
25 waters; and submission of monitoring data; or

26 B. Apply for authorization to discharge graywater or a  
27 mixture of graywater and blackwater pursuant to section 413.

28 **5. Agent for service of process.** The owner or operator of  
29 a commercial passenger vessel shall continuously maintain a  
30 designated agent for service of process whenever the commercial  
31 passenger vessel is in coastal waters. The agent must be an  
32 individual resident of the State, a domestic corporation or a  
33 foreign corporation having a place of business in and authorized  
34 to do business in the State. "Agent for service of process"  
35 means an agent upon whom process, notice of or demand required or  
36 permitted by law to be served upon the owner or operator may be  
37 served.

38 **6. Innocent passage.** This section does not apply to a  
39 commercial passenger vessel that operates in the coastal waters  
40 of the State solely in innocent passage. For purposes of this  
41 paragraph, a commercial passenger vessel is engaged in innocent  
42 passage if its operation in coastal waters of the State,  
43 regardless of whether the vessel is a United States or  
44 foreign-flag vessel, would constitute innocent passage under the:

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A. Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958, 15 U.S.T. 1606; or

B. United Nations Convention on the Law of the Sea 1982, December 10, 1982, United Nations publication No. E.83.V.5, 21 I.L.M. 1261 (1982), were the vessel a foreign-flag vessel.

**Sec. 3. 38 MRSA §464, sub-§4, ¶A,** as amended by PL 2003, c. 246, §14 and c. 318, §2, is further amended by amending subparagraph (6) to read:

(6) New discharges of domestic pollutants to the surface waters of the State that are not conveyed and treated in municipal or quasi-municipal sewage facilities. For the purposes of this subparagraph, "new discharge" means any overboard discharge that was not licensed as of June 1, 1987, except discharges from vessels and those discharges that were in continuous existence for the 12 months preceding June 1, 1987, as demonstrated by the applicant to the department with clear and convincing evidence. The volume of the discharge from an overboard discharge facility that was licensed as of June 1, 1987 is determined by the actual or estimated volume from the facilities connected to the overboard discharge facility during the 12 months preceding June 1, 1987 or the volume allowed by the previous license, whichever is less, unless it is found by the department that an error was made during prior licensing. The months during which a discharge may occur from an overboard discharge facility that was licensed as of June 1, 1987 must be determined by the actual use of the facility at the time of the most recent license application prior to June 1, 1987 or the actual use of the facility during the 12 months prior to June 1, 1987, whichever is greater. If the overboard discharge facility was the primary residence of an owner at the time of the most recent license application prior to June 1, 1987 or during the 12 months prior to June 1, 1987, then the facility is considered a year-round residence. "Year-round residence" means a facility that is continuously used for more than 8 months of the year. For purposes of licensing, the department shall treat an increase in the licensed volume or quantity of an existing discharge or an expansion in the months during which the discharge takes place as a new discharge of domestic pollutants;

**Sec. 4. PL 1999, c. 655, Pt. A, §1, sub-§6** is amended to read:



2           2. It proposes a number of definitions, including  
3 definitions of "graywater" and "large commercial passenger  
4 vessel."

6           3. It provides an exemption for large and small commercial  
7 passenger vessels for the discharge of graywater. The exemption  
8 for large commercial passenger vessels sunsets January 1, 2006,  
9 when they would either be required to certify that they will not  
10 discharge within state waters or obtain a waste discharge license  
11 from the State.

12           4. It exempts from regulation graywater discharges from  
13 small commercial passenger vessels. The Department of  
14 Environmental Protection is directed to report back to the joint  
15 standing committee of the Legislature having jurisdiction over  
16 natural resources matters by January 1, 2006 concerning further  
17 regulation of graywater discharges from small commercial vessels.

18           5. It requires that large commercial passenger vessels  
19 report discharges of blackwater in violation of federal law  
20 outside no-discharge zones or any blackwater discharges within a  
21 no-discharge zone.

22           6. It requires the reporting of unauthorized discharges of  
23 graywater from large commercial passenger vessels to the  
24 Department of Environmental Protection beginning in 2006.

25           7. It requires large commercial passenger vessels to  
26 annually certify, beginning in 2006, that they will not discharge  
27 graywater or a mixture of graywater and blackwater to the coastal  
28 waters and will act according to an agreement with the State.  
29 The agreement requires the submission of operational information  
30 and monitoring data. If the owner of the vessel does not want to  
31 enter into an agreement with the State, the owner would be  
32 required to seek authorization and a license to discharge  
33 graywater or a mixture of graywater and blackwater.

34           8. It makes a change specifically to exclude discharges  
35 from vessels from the prohibited class of "new discharges of  
36 domestic pollutants" untreated by a municipal facility.

37           9. It allows the Department of Environmental Protection to  
38 request authorization from the joint standing committee of the  
39 Legislature having jurisdiction over natural resources matters to  
40 apply to the federal Environmental Protection Agency for  
41 additional "no-discharge zone" designations in the future.

42           10. It requires the Department of Environmental Protection  
43 to report back to the joint standing committee of the Legislature

COMMITTEE AMENDMENT "A" to S.P. 378, L.D. 1158

having jurisdiction over natural resources matters by January 15,  
2005 concerning air emissions from vessels.

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**FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1158**

**An Act To Protect Maine's Coastal Water**



**LR 1259(02)**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Natural Resources**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds