

# 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)

DATE: 5-20-03

(Filing No. H-491)

MINORITY  
NATURAL RESOURCES

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

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 963, L.D. 1309, Bill, "An Act To Protect Public Health by Reducing Human Exposure to Arsenic"

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

Sec. 1. 33 MRSA §173-A is enacted to read:

§173-A. Information provided

Beginning January 1, 2004, unless the transaction is exempt under section 172, the seller of residential real property shall provide to the purchaser information developed by the Director of the Bureau of Health within the Department of Human Services regarding what homeowners should know about arsenic in private water supplies and arsenic in treated wood. Copies of this information must be provided to sellers at cost.

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

CHAPTER 16-C

ARSENIC-TREATED WOOD PRODUCTS

§1681. Definitions

As used in this chapter, unless the context otherwise indicates, "arsenic-treated wood" means lumber, timber, piles, poles, posts, plywood, shakes, shingles or other wood or forest

2 products intended for outdoor use that have been pressure treated  
3 to reduce decay with a wood preservative containing inorganic  
4 arsenic or inorganic arsenic compounds, including, but not  
5 limited to, chromated copper arsenate, commonly referred to as  
6 "CCA," or similar arsenic-based wood-preserving chemical mixtures.

7  
8 **§1682. Restriction on sale**

9  
10 The following restrictions apply to the sale of  
11 arsenic-treated wood or wood products for residential uses for  
12 which a cancellation order has been issued by the United States  
13 Environmental Protection Agency as published in the Federal  
14 Register on April 9, 2003.

15  
16 1. Notice by retail establishments. Retail establishments  
17 that sell arsenic-treated wood subject to this section shall post  
18 signs and label products as specified in the enhanced consumer  
19 awareness program developed in cooperation with the United States  
20 Environmental Protection Agency.

21  
22 2. Sale of arsenic-treated wood. After December 31, 2003,  
23 arsenic-treated lumber may not be manufactured for uses  
24 prohibited by the United States Environmental Protection Agency.  
25 After April 1, 2004, retailers must be in full compliance with  
26 the cancellation order issued by the United States Environmental  
27 Protection Agency published in the Federal Register on April 9,  
28 2003.

29  
30 **§1683. Statute not admissible in evidence**

31  
32 This chapter may not be admitted in evidence or offered as  
33 an exhibit for any purpose in any civil trial against any Maine  
34 manufacturer, distributor, wholesaler, retailer or installer of  
35 arsenic-treated wood. This section does not apply in cases of  
36 enforcement actions brought by the State.

37  
38 **Sec. 3. Disposal plan.** By January 1, 2005, the Department of  
39 Environmental Protection shall submit to the joint standing  
40 committee of the Legislature having jurisdiction over natural  
41 resources matters a plan for the safe management of  
42 arsenic-treated wood waste. The plan must be developed in  
43 consultation with interested parties. The plan must include, but  
44 is not limited to, recommendations regarding:

45  
46 1. The separation and segregation of arsenic-treated wood  
47 at solid waste handling facilities;

48 2. Restrictions on the combustion of arsenic-treated wood  
49 at incineration facilities, biomass boilers and other boilers; and  
50

2 3. Restrictions on the disposal of arsenic-treated wood at  
unlined landfills.

4 For purposes of this section, "arsenic-treated wood" has the  
6 same meaning as in the Maine Revised Statutes, Title 38, section  
1681.

8 **Sec. 4. Report on reducing arsenic exposure and ensuring safe  
drinking water from private wells.** The Department of Human Services,  
10 Bureau of Health shall submit a report no later than October 1,  
2004 to the Joint Standing Committee on Natural Resources and the  
12 Joint Standing Committee on Health and Human Services after  
consultation with a diverse group of interested parties. The  
14 report must contain an assessment of the need for a comprehensive  
safe drinking water program for private wells to address arsenic  
16 and other contaminants of human health concern and  
recommendations to address identified needs.

18 **Sec. 5. Report on arsenic and real estate transactions.** The Real  
20 Estate Commission, under the Maine Revised Statutes, Title 32,  
chapter 114, subchapter 2, shall submit a report no later than  
22 October 1, 2004 to the Joint Standing Committee on Natural  
Resources and the Joint Standing Committee on Business, Research  
24 and Economic Development after consultation with the Department  
of Human Services, Bureau of Health and other interested  
26 persons. The report must contain a description of efforts within  
the real estate industry to increase awareness among real estate  
28 licensees and buyers and sellers of residential real estate of  
the hazards of arsenic in water supplies and treated wood, the  
30 need to test for arsenic in private water supplies and the need  
to identify and to regularly coat with a sealant arsenic-treated  
32 wood structures, including decks, entryways and play sets. The  
efforts may include, but are not limited to, information directly  
34 used by home sellers and buyers, such as modifications to  
purchase and sales agreements, modifications to hazardous  
36 materials disclosures and educational brochures or other written  
information.

38 **Sec. 6. Report on arsenic-treated wood uses.** The Department of  
40 Environmental Protection shall submit a report no later than  
January 1, 2004 to the Joint Standing Committee on Natural  
42 Resources that contains a market evaluation of the sale of  
"arsenic-treated wood," as defined in the Maine Revised Statutes,  
44 Title 38, section 1681, in the State and the remaining uses of  
arsenic-treated wood that are still allowed in the State. For  
46 marine and other direct water contact uses of arsenic-treated  
wood, the report must include information on the market  
48 availability of alternatives to wood treated with a preservative

2 containing added copper. The joint standing committee may report  
out legislation to the Second Regular Session of the 121st  
4 Legislature to restrict the sale of arsenic-treated wood for all  
remaining uses.'

6  
8

**SUMMARY**

This amendment is the minority report of the Joint Standing  
10 Committee on Natural Resources and replaces the bill. The  
amendment requires the seller of residential real property to  
12 provide to the purchaser information developed by the Department  
of Human Services on arsenic in private water supplies and  
14 treated wood. The amendment requires retail establishments that  
sell arsenic-treated wood to post signs and label products as  
16 specified by the enhanced consumer awareness program developed in  
cooperation with the United States Environmental Protection  
18 Agency. After December 31, 2003, arsenic-treated lumber may not  
be manufactured for uses prohibited by the United States  
20 Protection Agency and after April 1, 2004, retailers must be in  
full compliance with the cancellation order issued by the United  
22 States Environmental Protection Agency. The amendment also  
prohibits the admission of the statute pertaining to arsenic-  
24 treated wood into evidence in any private-party civil proceeding  
against any Maine manufacturer, wholesaler, retailer or installer  
26 of arsenic-treated wood. The amendment requires the Department  
of Environmental Protection to develop a disposal plan for the  
safe management of arsenic-treated wood waste. It requires the  
28 Department of Human Services to submit a report on the need for a  
comprehensive safe drinking water program for private wells to  
30 address arsenic. It requires the Real Estate Commission to  
submit a report on the efforts within the real estate industry to  
32 increase awareness among real estate licensees and buyers and  
sellers of residential real estate of the hazards of arsenic in  
34 water supplies and treated wood, the need to test for arsenic in  
private water supplies and the need to identify and regularly  
36 coat with a sealant arsenic-treated wood structures. Finally,  
the amendment directs the Department of Environmental Protection  
38 to submit a report that contains a market evaluation of the sale  
and uses of arsenic-treated wood that are not prohibited under  
40 this legislation.

**FISCAL NOTE REQUIRED**  
(See attached)



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

**LD 1309**

**An Act to Protect Public Health by Reducing Human Exposure to  
Arsenic**

**LR 1495(03)**

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

**Committee: Natural Resources**

**Fiscal Note Required: Yes**

**Minority Report**

---

---

**Fiscal Note**

Minor cost increase - General Fund  
Minor cost increase - Other Special Revenue Funds

**Fiscal Detail and Notes**

Any additional cost to the Real Estate Commission within the Department of Professional and Financial Regulation, Office of Licensing and Registration, the Department of Environmental Protection and the Department of Human Services associated with conducting the required reports can be absorbed by these agencies utilizing existing budgeted resources.