

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

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No. 1309

H.P. 963

House of Representatives, March 11, 2003

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

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator BRENNAN of Cumberland and
Representatives: CURLEY of Scarborough, DUGAY of Cherryfield, HUTTON of
Bowdoinham, KANE of Saco, KOFFMAN of Bar Harbor, McKEE of Wayne, MOORE of
Standish, SAVIELLO of Wilton.

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

4 **Sec. 1. 32 MRSA §13065, sub-§3-A** is enacted to read:

6 **3-A. Hazardous materials disclosure.** The commission shall
8 adopt rules regarding minimum standards of practice for hazardous
10 materials disclosure to ensure consistency with the requirements
12 of Title 33, section 173 and Title 38, section 1683. Rules
14 adopted pursuant to this subsection are routine technical rules
16 as defined in Title 5, chapter 375, subchapter 2-A.

18 **Sec. 2. 33 MRSA §173, sub-§4,** as enacted by PL 1999, c. 476,
20 §1, is amended to read:

22 **4. Hazardous materials.** The presence or prior removal of
24 hazardous materials or elements on the residential real property,
26 including, but not limited to:

28 A. Asbestos;

30 B. Lead-based paint for pre-1978 homes in accordance with
32 federal regulations;

34 C. Radon; and

36 D. Underground oil storage tanks as required under Title
38 38, section 563, subsection 6; and

40 E. Arsenic in the water supply; and

42 F. Arsenic-treated wood as required under Title 38, section
44 1683; and

46 **Sec. 3. 38 MRSA c. 16-C** is enacted to read:

48 **CHAPTER 16-C**

50 **ARSENIC-TREATED WOOD PRODUCTS**

52 **§1681. Definitions**

54 As used in this chapter, unless the context otherwise
56 indicates, the following terms have the following meanings.

58 **1. Arsenic-treated wood.** "Arsenic-treated wood" means
60 lumber, timber, piles, poles, posts, plywood, shakes, shingles or
62 other wood or forest products intended for outdoor use that have
64 been pressure treated to reduce decay with a wood preservative
66 containing inorganic arsenic or inorganic arsenic compounds,
68 including, but not limited to, chromated copper arsenate,
70

2 commonly referred to as CCA, or similar wood-preserving chemical
3 mixtures.

4 2. Outdoor structure. "Outdoor structure" means a
5 construction of wood located outside on a property, whether
6 attached to or detached from a building, including, but not
7 limited to, a play set, picnic table, sandbox, deck, railing,
8 banister, set of steps, balcony, fence, post or dock.

10 **§1682. Restriction on sale**

12 1. Arsenic-treated wood. A person may not sell or
13 distribute any arsenic-treated wood or product manufactured with
14 arsenic-treated wood except as provided in subsection 2.

16 2. Exemptions. The prohibition in subsection 1 does not
17 apply to arsenic-treated wood intended solely for uses in direct
18 continuous contact with salt water or fresh water if such uses
19 are in compliance with labels for chromated copper arsenate wood
20 preservatives approved by the United State Environmental
21 Protection Agency and the wood product manufacturer, distributor
22 or seller provides information to the purchaser and handlers of
23 the arsenic-treated wood on precautions that should be taken
24 during construction, use, maintenance and disposal to minimize
25 human exposure to arsenic. Providing current information
26 available from the Department of Human Services, Bureau of
27 Health; Department of Environmental Protection; or the United
28 States Environmental Protection Agency satisfies the
29 informational requirements in this subsection.

30 **§1683. Providing notice**

32 Prior to the sale or transfer of any residential real
33 property that is subject to the requirements of Title 33, section
34 173, the owner or transferer of the real property shall file a
35 written notice with the purchaser or transferee disclosing the
36 location of any outdoor structure, whether the outdoor structure
37 was made with arsenic-treated wood or with pressure-treated wood
38 installed prior to January 1, 2004 and whether the outdoor
39 structure was coated with a sealant during the 180 days preceding
40 the date of transfer.

42 **§1684. Restrictions on disposal**

44 1. Disposal ban. A person may not process or dispose of
45 arsenic-treated wood by burning it as a fuel or chipping,
46 mulching or composting it for any intended purpose or by
47 commingling it with municipal solid waste except with an
48 assurance that such waste will be disposed of directly in a lined
49 landfill without prior processing pursuant to subsection 2.
50

2 **2. Acceptable disposal.** Arsenic-treated wood waste that is
4 not otherwise classified as a hazardous waste by the department
6 must be promptly disposed of without prior processing in a lined
8 landfill licensed to the satisfaction of the department. The
10 department may impose such solid waste facility licensing
12 conditions it determines necessary for the protection of
14 groundwater, air quality and human health from the handling,
16 storage and disposal of arsenic-treated wood waste.

18 **Sec. 4. Report on reducing arsenic exposure and ensuring safe**
20 **drinking water from private wells.** The Department of Human Services,
22 Bureau of Health shall submit a report no later than October 1,
24 2004 to the Joint Standing Committee on Health and Human Services
26 after consultation with a diverse group of interested parties.
28 The report must contain:

30 1. An assessment of options with recommendations for
32 further actions to minimize human exposure to inorganic arsenic
34 from drinking water, treated wood and other preventable sources;
36 and

38 2. An assessment of the need for a comprehensive safe
40 drinking water program for private wells to address arsenic and
 other contaminants of human health concern with recommendations
 to address identified needs.

SUMMARY

 This bill requires disclosure of the presence of arsenic in
the water supply and in outdoor structures made with
arsenic-treated wood when residential real property is sold. The
bill bans the sale or distribution of arsenic-treated wood except
for salt water or fresh water uses. The bill restricts the
disposal of arsenic-treated wood to a lined landfill, prohibiting
its burning as a fuel or its chipping, mulching or composting.
The Department of Human Service, Bureau of Health is required to
report by October 1, 2004 on further actions to reduce human
exposure to arsenic and on the need for a comprehensive safe
drinking water program for private wells.