

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1549

H.P. 1135

House of Representatives, April 10, 2003

An Act To Fund Municipal Collection of Household Hazardous Waste

Reported by Representative KOFFMAN of Bar Harbor for the Joint Standing Committee on Natural Resources pursuant to Resolve 2001, chapter 93.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 Sec. 1. 36 MRSA c. 721 is enacted to read:

6 CHAPTER 721

8 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT FEE

10 §4871. Definitions

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

14 1. Architectural coating. "Architectural coating" means a coating manufactured and recommended for field application to stationary structures and their appurtenances. "Architectural coating" includes all coatings formulated for normal environmental conditions and sold at retail for on-site application at ambient temperatures to the interior and exterior surfaces of residential, commercial, institutional or industrial buildings and structures. "Architectural coating" does not include:

24 A. Product coatings recommended by the manufacturer solely for shop application or solely for application to nonstationary equipment or products such as automobiles, airplanes, boats, appliances and other consumer goods;

28 B. Industrial maintenance coatings as defined under 40 Code of Federal Regulations, 59.401 (2002); or

32 C. Special-purpose coatings, including, but not limited to, coatings formulated and recommended for auto refinishing, bridge maintenance and traffic lane marking.

36 2. Coating. "Coating" means a liquid or mastic composition applied onto or impregnated into a substrate for protective, decorative or functional purposes. "Coating" includes, but is not limited to, interior and exterior house paints, stains, varnishes, lacquers, sealers, primers and undercoaters.

42 3. Distributor or wholesaler. "Distributor" or "wholesaler" means a person who engages in the business of selling or distributing architectural coatings or general use pesticides for the purpose of resale.

46 4. General use pesticide. "General use pesticide" has the same meaning as in Title 22, section 1471-C, subsection 11-B.

2 5. Retailer. "Retailer" means a person who engages in the
business of selling architectural coatings or general use
pesticides to consumers.

4
6 6. Shop application. "Shop application" means the
application of a coating to a product or a component of a product
in a factory as part of a manufacturing, production or repairing
8 process.

10 7. Unit. "Unit" means an individual container of pesticide
of any size distributed, or to be distributed, to retailers for
12 purchase by a consumer. Units may include, but are not limited
to, such containers as bags, boxes, bottles and cans.

14 **§4872. Fee on architectural coatings**

16 1. Fee imposed. A fee of 20¢ per gallon is imposed on the
18 retail sale of architectural coatings in this State.
Architectural coatings in containers of less than one-gallon
20 capacity are exempt from this fee.

22 2. Advertising of payment by retailer. It is unlawful for
any retailer to advertise or hold out or state to the public or
24 to any consumer, directly or indirectly, that the fee imposed by
this section will be assumed or absorbed by the retailer or that
26 it will not be added or included in the selling price of the
coating or that, if added or included, the fee or any part
28 thereof will be refunded.

30 3. Distributor responsibility. Upon request by a retailer
of architectural coatings doing business in this State, a
32 distributor shall provide a quarterly, semiannual or annual
report identifying the number of gallons of architectural
34 coatings sold to the retailer in containers of one gallon or more.

36 **§4873. Fee on general use pesticides**

38 A fee of 20¢ is imposed on each unit of general use
pesticide distributed within this State for retail sale. This
40 fee is imposed at the distributor level. Pesticide products
exempt from licensure requirements pursuant to Title 22, section
42 1471-W, subsection 5 are exempt from the fee imposed by this
section.

44 **§4874. Administration**

46 1. Deposit of revenue. The fees imposed by this chapter
48 are administered as provided under chapter 7 and Part 3 and must
be considered as imposed under Part 3. The revenue derived from
50 the fees imposed by this chapter must be deposited in the Maine

2 Solid Waste Management Fund established under Title 38, section
3 2201, from which the General Fund must be reimbursed for the
4 administrative costs of the fees as certified by the bureau.

6 2. Transfer of revenue. Revenues derived from the fees
7 imposed by this chapter may be transferred from the Maine Solid
8 Waste Management Fund in accordance with the following:

10 A. At least 90% of the revenues must be made available as
11 state cost share to municipalities by the Executive
12 Department, State Planning Office as authorized under Title
13 38, section 2133, subsection 2-B;

14 B. Up to 5% of the revenues may be transferred to the
15 Department of Environmental Protection or the Executive
16 Department, State Planning Office to develop and carry out
17 education and outreach activities related to proper
18 management of household hazardous waste; and

20 C. Up to 5% of the revenues may be transferred to the
21 Department of Agricultural, Food and Rural Resources, Board
22 of Pesticides Control to support achievement of the
23 pesticide use minimization goal of Title 22, section 1471-X.

24 **Sec. 2. Application.** This Act applies to retail purchases of
26 architectural coatings and to distribution of general use
27 pesticide products for retail sale occurring in this State on or
28 after January 1, 2004.

30 SUMMARY

32 Under current law, a disposal ban on mercury products from
34 household sources becomes effective in January 2005. In order to
35 expand current efforts of municipalities and regional waste
36 associations to establish household hazardous waste collection
37 programs, this bill generates revenue for the purpose of
38 providing state cost share support for the operational costs
39 incurred by municipalities in the management of household
40 hazardous waste. Revenue is generated by imposing a 20¢ fee on
41 the retail sale of architectural coatings sold in containers of
42 one gallon and on each unit of general use pesticide distributed
for retail sale in this State.