

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

Majority

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588, Bill, "An Act To Amend Certain Laws Administered by the Department of Environmental Protection"

Amend the bill in section 3 in that part designated "§5219-X." in subsection 4 in the 8th line (page 2, line 21 in L.D.) by striking out the following: "heating value" and inserting in its place the following: 'BTU equivalent'

Further amend the bill in section 4 in the indented paragraph in the last line (page 2, line 47 in L.D.) by inserting after the following: "factors" the following: 'and the applicant agrees not to hold a presubmission meeting'

Further amend the bill in section 5 by striking out all of subsection 3 (page 3, lines 2 to 41 in L.D.) and inserting in its place the following:

'3. **Emergency orders.** Whenever it appears to the commissioner, after investigation, that there is a violation of the laws or regulations which the department administers or of the terms or conditions of any of the department's orders, ~~which~~ that is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. Service of a copy of the commissioner's findings and order ~~issued under this emergency procedure shall~~ must be made by the sheriff or deputy sheriff ~~within the county where the person to whom the order is directed operates or resides~~ or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure. In the event that the persons are so numerous that the specified method of service is a

COMMITTEE AMENDMENT

2 practical impossibility or the commissioner is unable to identify
3 the person or persons causing or contributing to the hazard, the
4 commissioner shall make the order known through prominent
5 publication or announcement in news media serving the affected
6 area.

7
8 The person to whom the order is directed shall comply with the
9 order immediately. The order may not be appealed to the Superior
10 Court in the manner provided in section 346, but within 48 hours
11 after receipt of the order the person may apply to the board for
12 a hearing on the order ~~which shall be held by the board within 48~~
13 ~~hours after receipt of application.~~ Within 7 days after the
14 ~~hearing, the board shall make findings of fact and continue,~~
15 ~~revoke or modify the order.~~ Within 7 working days after receipt
16 of the application, the board shall hold a hearing, make findings
17 of fact and vote on a decision that continues, revokes or
18 modifies the order. That decision must be in writing and signed
19 by the board chair using any means for signature authorized in
20 the department's rules and published within 2 working days after
21 the hearing and vote. The nature of the hearing is an appeal.
22 At the hearing, all witnesses must be sworn and the commissioner
23 shall first establish the basis for the order and for naming the
24 person to whom the order was directed. The decision of the board
25 may be appealed to the Superior Court in the manner provided by
26 section 346.'

27 Further amend the bill by inserting after section 5 the
28 following:

29 **'Sec. 6. 38 MRSA §352, sub-§2, ¶G is enacted to read:**

30
31 G. The license, notice, registration and certification fees
32 administered by the department under this Title must be
33 doubled at the time an application is submitted if it is
34 received after the date on which submission is required by
35 law. This increase may be reduced at the commissioner's
36 discretion with a showing of mitigating circumstances.'

37 Further amend the bill by inserting after section 8 the
38 following:

39 **'Sec. 9. 38 MRSA §436-A, sub-§1, as amended by PL 1989, c.**
40 **403, §4, is further amended to read:**

41
42 **1. Coastal wetlands.** "Coastal wetlands" means all tidal
43 and subtidal lands; ~~all lands below any identifiable debris line~~
44 ~~left by tidal action;~~ all lands with vegetation present that is
45 tolerant of salt water and occurs primarily in a salt water or
46 estuarine habitat; and any swamp, marsh, bog, beach, flat or
47 other contiguous low land ~~which~~ that is subject to tidal action
48
49
50

2 during the ~~maximum-spring~~ highest tide level for the year in
3 which an activity is proposed as identified in tide tables
4 published by the National Ocean Service. Coastal wetlands may
include portions of coastal sand dunes.'

6 Further amend the bill in section 9 in paragraph B in
7 subparagraph (1) in the 2nd line (page 4, line 42 in L.D.) by
8 inserting after the following: "Jacksonville" the following: 'and
9 except as specified in subparagraph (7)'

10 Further amend the bill by inserting after section 9 the
11 following:

12 'Sec. 10. 38 MRSA §470-H is enacted to read:

13 **§470-H. Water use standards; rules**

14 The board shall adopt rules that establish water use
15 standards for maintaining in-stream flows and GPA lake or pond
16 water levels that are protective of aquatic life and other uses
17 and that establish criteria for designating watersheds most at
18 risk from cumulative water use. Standards adopted under this
19 section must be based on the natural variation of flows and water
20 levels, allowing variances if use will still be protective of
21 water quality within that classification. Rules adopted under
22 this section are major substantive rules as defined in Title 5,
23 chapter 375, subchapter 2-A.'

24 Further amend the bill in section 10 in subsection 2 in the
25 8th line (page 5, line 19 in L.D.) by striking out the following:
26 "each" and inserting in its place the following: 'the'

27 Further amend the bill by striking out all of section 11 and
28 inserting in its place the following:

29 'Sec. 11. 38 MRSA §480-E-1, as amended by PL 2001, c. 232,
30 §15, is repealed and the following enacted in its place:

31 **§480-E-1. Delegation of permit-granting authority to Maine**
32 **Land Use Regulation Commission**

33 The Maine Land Use Regulation Commission shall issue all
34 permits under this article for activities that are located wholly
35 within its jurisdiction and are not subject to review and
36 approval by the department under any other article of this
37 chapter.

38 1. Activity located in organized and unorganized area. If
39 an activity is located in part within an organized area and in
40 part within an area subject to the jurisdiction of the Maine Land
41 Use Regulation Commission, the permit shall be issued by the
42 commission.

2 Use Regulation Commission, that portion of the activity within
3 the organized area is subject to department review under this
4 article if that portion is an activity pursuant to this article.
5 That portion of the activity within the jurisdiction of the Maine
6 Land Use Regulation Commission is not subject to the requirements
7 of this article except as provided in subsection 2.

8 2. Allowed use. If an activity is located as described in
9 subsection 1, the department may review that portion of the
10 activity within the jurisdiction of the Maine Land Use Regulation
11 Commission if the commission determines that the project is an
12 allowed use within the subdistrict or subdistricts for which it
13 is proposed pursuant to Title 12, section 685-B. A permit from
14 the Maine Land Use Regulation Commission is not required for
15 those aspects of an activity approved by the department under
16 this subsection.

17 Review by the department of subsequent modifications to a
18 development approved by the department is required, except that
19 the Maine Land Use Regulation Commission shall issue
20 modifications to permits issued by the department pursuant to
21 this article prior to September 18, 1999. The Maine Land Use
22 Regulation Commission shall process these permits and
23 modifications in accordance with the provisions of Title 12,
24 sections 681 to 689 and rules and standards adopted under those
25 sections.

26 The Maine Land Use Regulation Commission, in consultation
27 with the department, shall annually review land use standards
28 adopted by the commission to ensure that the standards afford a
29 level of protection consistent with the goals of this article,
30 the goals of Title 12, chapter 206-A and the commission's
31 comprehensive land use plan.'

32 Further amend the bill in section 15 in paragraph B in the
33 3rd line (page 7, line 15 in L.D.) by striking out the following:
34 " , including" and inserting in its place the following: 'that
35 includes'

36 Further amend the bill in section 16 by striking out all of
37 subsection 9 (page 7, lines 21 to 50 and page 8, lines 1 to 6 in
38 L.D.) and inserting in its place the following:

39 '9. Development within unorganized areas. A development
40 located entirely within an area subject to the jurisdiction of
41 the Maine Land Use Regulation Commission, other than a metallic
42 mineral mining or advanced exploration activity or an oil
43 terminal facility, is exempt from the requirements of this
44 article.

45

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

2 A. If a development is located in part within an organized
4 area and in part within an area subject to the jurisdiction
6 of the Maine Land Use Regulation Commission, that portion of
8 the development within the organized area is subject to
10 review under this article if that portion is a development
12 pursuant to this article. That portion of the development
14 within the jurisdiction of the commission is exempt from the
16 requirements of this article except as provided in paragraph
18 B.

20 B. If a development is located as described in paragraph A,
22 the department may review those aspects of a development
24 within the jurisdiction of the Maine Land Use Regulation
26 Commission if the commission determines that the development
28 is an allowed use within the subdistrict or subdistricts for
30 which it is proposed pursuant to Title 12, section 685-B. A
32 permit from the Maine Land Use Regulation Commission is not
34 required for those aspects of a development approved by the
36 department under this paragraph.

38 Review by the department of subsequent modifications to a
40 development approved by the department is required. For a
42 development or part of a development within the jurisdiction of
44 the Maine Land Use Regulation Commission, the director of the
46 commission may request and obtain technical assistance and
48 recommendations from the department. The commissioner shall
50 respond to the requests in a timely manner. The recommendations
of the department must be considered by the Maine Land Use
Regulation Commission in acting upon a development application.'

Further amend the bill in section 19 by striking out all of
paragraph A (page 9, lines 25 to 32 in L.D.) and inserting in its
place the following:

34 'A. Any orders issued under this section must contain
36 findings of fact describing the manner and extent of oil
38 contamination, the site of the discharge and the threat to
40 the public health or environment. Service of a copy of the
42 commissioner's findings and order must be made by the
sheriff or deputy sheriff or by hand delivery by an
authorized representative of the department in accordance
with the Maine Rules of Civil Procedure.'

44 Further amend the bill in section 19 in paragraph B in the
46 9th line (page 9, line 42 in L.D.) by inserting after the
48 following: "order." the following: 'That decision must be in
50 writing and signed by the board chair using any means for
signature authorized in the department's rules and published
within 2 working days after the hearing and vote.'

Further amend the bill by inserting after section 20 the following:

'Sec. 21. 38 MRSA §579 is enacted to read:

§579. Regional greenhouse gas initiative

The department may participate in the regional greenhouse gas initiative as described in the climate action plan required in section 577.'

Further amend the bill by striking out all of section 21 (page 10, lines 18 to 45 in L.D.) and inserting in its place the following:

'Sec. 21. 38 MRSA §1296, 2nd and 3rd ¶¶, as enacted by PL 1997, c. 375, §14, are amended to read:

An order issued under this section must contain findings of fact describing, insofar as possible, the site of the activity and the danger to the public health or safety. Service of a copy of the commissioner's findings and an order must be made pursuant to by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure.

The person to whom the order is directed shall comply immediately and may apply to the board for a hearing on the order if the application is made within 5 10 working days after receipt of the order by a responsible party. The board shall hold the hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order within 5 15 working days after receipt of the application. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote. The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order is directed. The burden of going forward then shifts to the person appealing to demonstrate, based upon a preponderance of the evidence, that the order should be modified or rescinded. ~~Within 7 days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the order.~~ The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter VII 7.'

Further amend the bill in section 22 by striking out all of paragraph C (page 11, lines 1 to 5 in L.D.) and inserting in its place the following:

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

2 'C. Service of a copy of the commissioner's findings and an
3 order shall must be made by the sheriff or deputy sheriff or
4 by hand delivery by an authorized representative of the
5 department ~~or by certified mailing, return receipt~~
6 requested, in accordance with the Maine Rules of Civil
7 Procedure.'

8
9 Further amend the bill in section 23 by striking out all of
10 paragraph D (page 11, lines 10 to 27 in L.D.) and inserting in
11 its place the following:

12
13 'D. The person to whom the order is directed shall comply
14 immediately or within a specified time period. That person
15 may apply to the board within 10 working days after receipt
16 of the order for a hearing on the order. Within 15 working
17 days after receipt of the application, the board shall hold
18 a hearing, make findings of fact and ~~continue, revoke or~~
19 modify vote on a decision that continues, revokes or
20 modifies the order. That decision must be in writing and
21 signed by the board chair using any means for signature
22 authorized in the department's rules and published within 2
23 working days after the hearing and vote. The nature of the
24 hearing before the board is an appeal. At the hearing, all
25 witnesses shall must be sworn and the commissioner shall
26 first establish the basis for the order and for naming the
27 person to whom the order is directed. The decision of the
28 board may be appealed to the Superior Court in accordance
29 with the ~~Maine Administrative Procedure Act,~~ Title 5,
30 chapter 375, subchapter VII 7.'

31
32 Further amend the bill by inserting after section 23 the
33 following:

34
35 'Sec. 24. 38 MRSA §1306, sub-§4, as enacted by PL 2003, c.
36 150, §1, is amended to read:

37
38 4. Cathode ray tube disposal. ~~After January 1, 2006,~~
39 Beginning 9 months after the department adopts rules pursuant to
40 section 1610, subsection 5, paragraph D, subparagraph (1), a
41 person may not dispose of a cathode ray tube in a solid waste
42 disposal facility. This subsection may not be construed to
43 affect existing laws, rules or regulations governing disposal of
44 cathode ray tubes in effect prior to January 1, 2006 the adoption
45 of rules pursuant to section 1610, subsection 5, paragraph D,
46 subparagraph (1).'

47
48 Further amend the bill in section 24 by striking out all of
49 the indented paragraph (page 11, lines 32 to 36 in L.D.) and
50 inserting in its place the following:

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

2 'Service of a copy of the commissioner's findings and an
3 order shall must be made pursuant--to by the sheriff or deputy
4 sheriff or by hand delivery by an authorized representative of
5 the department in accordance with the Maine Rules of Civil
6 Procedure.'

8 Further amend the bill in section 25 by striking out all of
9 the indented paragraph (page 11, lines 41 to 51 and page 12,
10 lines 1 to 7 in L.D.) and inserting in its place the following:

12 'The person to whom the order is directed shall comply
13 immediately. An order may not be appealed to the Superior Court,
14 but a person to whom it is directed may apply to the board for a
15 hearing on the order if the application is made within ~~48-hours~~
16 10 working days after receipt of the order by the person to whom
17 the order was directed. Within ~~5~~ 15 working days after receipt
18 of the application, the board shall hold a hearing, make findings
19 of fact and ~~continue,--revoke--or--modify~~ vote on a decision that
20 continues, revokes or modifies the order. That decision must be
21 in writing and signed by the board chair using any means for
22 signature authorized in the department's rules and published
23 within 2 working days after the hearing and vote. The nature of
24 the hearing before the board is an appeal. At the hearing, all
25 witnesses must be sworn and the commissioner shall first
26 establish the basis for the order and for naming the person to
27 whom the order is directed. The decision of the board may be
28 appealed to the Superior Court in accordance with Title 5,
29 chapter 375, subchapter ~~VII~~ 7.'

30 Further amend the bill by striking out all of section 26
31 (page 12, lines 9 to 38 in L.D.) and inserting in its place the
32 following:

34 'Sec. 26. ~~38~~ MRSA §1316-A, 3rd and 4th ¶¶, as enacted by PL
35 1995, c. 579, §2, are amended to read:

38 Service of a copy of the commissioner's findings and an
39 administrative order must be made by the sheriff or deputy
40 sheriff or by hand delivery by an authorized representative of
41 the department ~~or by certified mail, return receipt requested in~~
42 accordance with the Maine Rules of Civil Procedure.

44 The person to whom the administrative order is directed
45 shall comply immediately. That person may apply to the board for
46 a hearing within ~~5~~ 10 working days after receipt of the
47 administrative order. ~~The hearing must be held by the board at~~
48 ~~the next regularly scheduled meeting following receipt of the~~
49 ~~application, but in no event later than 30 days after receipt of~~
50 ~~the application.~~ Within 15 working days after receipt of the

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

2 application, the board shall hold a hearing, make findings of
3 fact and vote on a decision that continues, revokes or modifies
4 the order. That decision must be in writing and signed by the
5 board chair using any means for signature authorized in the
6 department's rules and published within 2 working days after the
7 hearing and vote. The nature of the hearing before the board is
8 an appeal. At the hearing, all witnesses shall must be sworn,
9 and the department shall first establish the basis for the
10 administrative order and for naming the person to whom the
11 administrative order was directed. ~~Within--7--days--after--the~~
12 ~~hearing,--the--board--shall--make--findings--of--fact--and--shall~~
13 ~~continue,--revoke--or--modify--the--administrative--order.~~ The
14 decision of the board may be appealed to the Superior Court in
accordance with Title 5, chapter 375, subchapter VII 7.'

16 Further amend the bill in section 30 by striking out all of
17 subsection 3 (page 13, lines 48 to 50 and page 14, lines 1 and 2
18 in L.D.) and inserting in its place the following:

20 '3. **Service.** Service of a copy of the commissioner's
21 findings and an order shall must be made pursuant--to by the
22 sheriff or deputy sheriff or by hand delivery by an authorized
23 representative of the department in accordance with the Maine
24 Rules of Civil Procedure.'

26 Further amend the bill in section 31 in subsection 4 in the
27 9th line (page 14, line 16 in L.D.) by inserting after the
28 following: "order." the following: 'That decision must be in
29 writing and signed by the board chair using any means for
30 signature authorized in the department's rules and published
31 within 2 working days after the hearing and vote.'

32 Further amend the bill by inserting after section 31 the
33 following:

36 '**Sec. 32. 38 MRSA §1610, sub-§2, ¶D,** as reallocated by RR
37 2003, c. 2, §119, is amended to read:

38 D. "Manufacturer" means a person who manufactures and
39 sells, or has sold, by any means, including, but not limited
40 to, transactions conducted through sales outlets, catalogs
41 or the Internet, a covered electronic device under its own
42 brand or sells, or has sold, a covered electronic device
43 produced by other suppliers under its own brand and label.'

46 Further amend the bill by striking out all of section 32
47 (page 14, lines 29 to 40 in L.D.) and inserting in its place the
48 following:

2 'Sec. 32. 38 MRSA §1610, sub-§5, ¶¶D and E, as reallocated by
RR 2003, c. 2, §119, are amended to read:

4 D. Computer monitor manufacturers and television
6 manufacturers are subject to the requirements of this
paragraph.

8 (1) ~~Beginning January 1, 2006,~~ Ninety days after the
10 department adopts rules as provided for in this
12 subparagraph, each computer monitor manufacturer and
14 each television manufacturer is individually
16 responsible for handling and recycling all computer
18 monitors and televisions that are produced by that
20 manufacturer or by any business for which the
22 manufacturer has assumed legal responsibility, that are
24 generated as waste by households in this State and that
26 are received at consolidation facilities in this
28 State. In addition, each computer manufacturer is
30 responsible for a pro rata share of orphan waste
32 computer monitors and each television manufacturer is
34 responsible for a pro rata share of orphan waste
36 televisions generated as waste by households in this
38 State and received at consolidation facilities in this
40 State. The manufacturers shall pay the reasonable
operational costs of the consolidation facility
attributable to the handling of all computer monitors
and televisions generated as waste by households in
this State, the transportation costs from the
consolidation facility to a licensed recycling and
dismantling facility and the costs of recycling. The
manufacturers shall ensure that consolidation
facilities are geographically located to conveniently
serve all areas of the State as determined by the
department. The By November 1, 2005, the department
shall adopt routine technical rules as defined in Title
5, chapter 375, subchapter 2-A that identify the
criteria that consolidation facilities must use to
determine reasonable operational costs attributable to
the handling of computer monitors and televisions.

42 (2) Each computer monitor manufacturer and television
44 manufacturer shall work cooperatively with
46 consolidation facilities to ensure implementation of a
practical and feasible financing system. Within 90
days of receipt of an invoice, a manufacturer shall
reimburse a consolidation facility for allowable costs
incurred by that consolidation facility.

48 E. Annually, beginning January 1, ~~2007~~ 2006, the department
50 shall provide manufacturers and consolidation facilities

2 with a listing of each manufacturer's pro rata share of
orphan waste computer monitors and televisions. The
4 department shall determine each manufacturer's pro rata
share based on the best available information, including but
6 not limited to data provided by manufacturers and
consolidators and data from electronic waste collection
8 programs in other jurisdictions within the United States.'

10 Further amend the bill by inserting after section 32 the
following:

12 'Sec. 33. 38 MRSA §1610, sub-§6, ¶A, as reallocated by RR
2003, c. 2, §119, is amended to read:

14 A. A manufacturer shall develop a plan for the collection
16 and recycling or reuse of computer monitors and televisions
as follows.

18 (1) By March 1, 2005, a manufacturer of computer
20 monitors and a manufacturer of televisions shall
develop and submit to the department a plan for the
22 collection and recycling or reuse of computer monitors
and televisions produced by the manufacturer and
24 generated as waste by households in this State. This
plan must be based on the manufacturer's taking
26 responsibility for its products upon receipt at
consolidation facilities in the State. Following
28 submission of the original plan, manufacturers may
revise their plans at any time as they may consider
30 appropriate in response to changing circumstances or
needs provided that these revisions conform to the
32 provisions of this section and rules adopted pursuant
to this section, and are submitted to the department in
34 a timely fashion.

36 (2) By January 1, 2006, a manufacturer of computer
monitors and a manufacturer of televisions shall
38 implement and finance the implementation of this plan
for the collection and recycling or reuse of computer
40 monitors and televisions produced by the manufacturer
and generated as waste by households in this State.

42 (3) Notwithstanding subparagraphs (1) and (2), a
44 manufacturer may satisfy the plan requirements of this
paragraph by agreeing to participate in a collective
46 recovery plan with other manufacturers. The collective
recovery plan must meet the same standards and
48 requirements of the plans submitted by individual
manufacturers.

50

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

- 2 (4) The plan developed by the manufacturer must
include, at a minimum:
- 4 (a) A description of the collection system,
6 including the methods of convenient collection;
- 8 (b) A public education element to inform the
10 public about the collection system, including
details about meeting all consumer notification
and labeling requirements;
- 12 (c) Details for implementing and financing the
14 handling of computer monitors and televisions
produced by the manufacturer and orphan waste
16 computer monitors and televisions that are
generated as waste by households in this State and
18 received by consolidation facilities in this State;
- 20 (d) Details for the method of reimbursing
consolidation facilities for the costs of handling
22 and recycling the household computer monitors and
televisions;
- 24 (e) Documentation of the willingness of all
26 necessary parties to implement the plan, including
the parties that will participate in the
28 consolidation, treatment, recovery, reuse and
recycling of the computer monitors and televisions;
- 30 (f) Assurances that the plan and all necessary
32 parties will operate in compliance with local,
state and federal waste management laws, rules and
34 regulations;
- 36 (g) Descriptions of the performance measures that
will be used and reported by the manufacturer to
38 report recovery and recycling rates for computer
monitors and televisions at the end of life of
40 those computer monitors and televisions;
- 42 (h) Descriptions of additional or alternative
actions that will be taken to improve recovery and
44 recycling rates, if needed; and
- 46 (i) Annual sales data on the number and type of
computer monitors and televisions sold by the
48 manufacturer in this State over the 5 years
preceding the filing of the plan.

2 (5) A manufacturer is responsible for all costs
3 associated with the development and implementation of
4 the plan. If the costs are passed on to consumers, the
5 costs must be imposed at the time of purchase and not
6 with a fee imposed at the end of life of the computer
7 monitor or television.

8 **Sec. 34. 38 MRSA §1610, sub-§7**, as reallocated by RR 2003, c.
9 2, §119, is amended to read:

10 **7. Enforcement; cost recovery.** The department must enforce
11 this section in accordance with the provisions of sections 347-A
12 and 349. If a manufacturer fails to pay for the costs allocated
13 to it pursuant to section 1610, subsection 5, paragraph D,
14 subparagraph (1), including its pro rata share of costs
15 attributable to orphan waste, the department may pay a
16 consolidator its legitimate costs from the Maine Solid Waste
17 Management Fund established in section 2201 and seek cost
18 recovery from the nonpaying manufacturer. Any nonpaying
19 manufacturer is liable to the State for costs incurred by the
20 State in an amount up to 3 times the amount incurred as a result
21 of such failure to comply.

22 The Attorney General is authorized to commence a civil action
23 against any manufacturer to recover the costs described in this
24 subsection, which are in addition to any fines and penalties
25 established pursuant to section 349. Any money received by the
26 State pursuant to this subsection must be deposited in the Maine
27 Solid Waste Management Fund established in section 2201.'

28 Further amend the bill by striking out all of sections 33
29 and 34 (page 14, lines 42 to 51 and page 15, lines 1 to 26 in
30 L.D.)

31 Further amend the bill by inserting after section 35 the
32 following:

33 **'Sec. 36. Rules regarding water use standards.** Rules adopted
34 by the Department of Environmental Protection pursuant to the
35 Maine Revised Statutes, Title 38, section 470-H must be
36 provisionally adopted by January 1, 2006 and submitted for
37 consideration to the Joint Standing Committee on Natural
38 Resources in the Second Regular Session of the 122nd
39 Legislature. This section is repealed 90 days after adjournment
40 of the Second Regular Session of the 122nd Legislature.

41 **Sec. 37. Legislation.** The Department of Environmental
42 Protection may submit legislation to the Second Regular Session
43 of the 122nd Legislature prior to March 1, 2006 to implement

2 measures necessary to meet the goals of the climate action plan
required in the Maine Revised Statutes, Title 38, section 577.'

4 Further amend the bill by relettering or renumbering any
6 nonconsecutive Part letter or section number to read
consecutively.

8

SUMMARY

10

This amendment is the majority report.

12

14 The amendment clarifies text describing the classification
of the East Machias River tributaries by providing that all
16 tributaries entering below the Route 191 bridge in Jacksonville
are classified as Class B.

18

The amendment clarifies the definition of "coastal wetlands"
20 to make it consistent between the natural resources protection
laws and the mandatory shoreland zoning laws.

22

The amendment clarifies that the oil or gas exploration or
24 production development being addressed must include drilling or
excavation under water.

26

The amendment clarifies the jurisdiction of the Department
28 of Environmental Protection and the Maine Land Use Regulation
Commission under the natural resources protection laws and the
30 site location of development law when development activity spans
both department and commission jurisdictions.

32

The amendment provides for service of orders by a sheriff or
34 deputy sheriff; deletes provisions in the bill for service by
certified mail; and adds language requiring that the Board of
36 Environmental Protection's decisions be in writing, signed by the
chair and published within 2 working days of the decision.

38

The amendment deletes sections of the bill that proposed to
change report dates.

40

The amendment authorizes a fee for after-the-fact
42 applications submitted to the Department of Environmental
Protection.

44

The amendment adds a new section authorizing the Department
46 of Environmental Protection to participate in the regional
greenhouse gas initiative outlined in Maine's climate action
48 plan. The amendment authorizes the department to submit
legislation to implement measures necessary to meet the goals of
50 Maine's climate action plan.

COMMITTEE AMENDMENT "A" to H.P. 1124, L.D. 1588

2 The amendment extends the deadline by which the Board of
3 Environmental Protection is to adopt rules that establish water
4 use standards for maintaining in-stream flows and GPA lake or
5 pond water levels that are protective of aquatic life and other
6 uses and that establish criteria for designating watersheds most
7 at risk from cumulative water use.

8
9 The amendment adds new sections that amend the laws on
10 recycling of electronic waste to do the following:

11
12 1. Clarify that the law applies to manufacturers of covered
13 electronic devices even if that manufacturer no longer produces
14 the covered device;

15
16 2. Establish November 1, 2005 as the date by which the
17 department must adopt rules specifying the procedure for
18 allocating the costs of electronics recycling;

19
20 3. Allow manufacturers of covered electronics to revise
21 their plans for collecting and recycling the electronics as
22 needed in response to changing circumstances;

23
24 4. Make the manufacturer of covered electronics liable for
25 costs incurred by the State as a result of the manufacturer's
26 failure to reimburse the costs of recycling covered electronics;
27 and

28
29 5. Extend the effective date of the disposal ban on
30 electronic waste from January 1, 2006 to 9 months after the
31 Department of Environmental Protection adopts rules in order to
32 give municipalities more time to put collection systems in place.

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34

35
36

FISCAL NOTE REQUIRED
(See attached)



Approved: 05/27/05 *mac*

122nd MAINE LEGISLATURE

LD 1588

LR 0379(02)

An Act to Amend Certain Laws Administered by the Department of Environmental Protection

Fiscal Note for Bill as Amended by Committee Amendment 'A'

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Undetermined revenues increase - Other Special Revenue Funds

Minor cost increase - General Fund

Fiscal Detail and Notes

Increasing the fees for after-the-fact applications to the Department of Environmental Protection will increase Other Special Revenue Funds revenue. The additional costs associated with this legislation can be absorbed by the Department of Environmental Protection utilizing existing budgeted resources.