

MAINE STATE LEGISLATURE

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RAS

L.D. 1657

DATE: 3/27/06

(Filing No. H-885)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1168, L.D. 1657, Bill, "An Act To Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides"

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

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the spraying of pesticides to curtail browntail moth populations begins in the spring; and

Whereas, action is needed to reduce the risk to marine organisms from pesticides used to curtail browntail moths; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §1444, sub-§4 is enacted to read:

4. Limits on pesticide applications. Pesticide applications near coastal waters in Cumberland, Sagadahoc and

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2 York counties to control browntail moths must be in compliance
3 with section 1445.

4 This subsection is repealed March 31, 2007.

6 **Sec. 2. 22 MRSA §1445** is enacted to read:

8 **§1445. Restrictions on application of pesticides to**
9 **control browntail moths in coastal areas**

10 This section applies to the application of pesticides to
12 control browntail moths in coastal areas. For the purposes of
14 this section, "coastal areas" means land in Cumberland, Sagadahoc
16 and York counties abutting coastal waters as defined in Title 12,
section 6001, subsection 6, except that coastal areas extend
inland up rivers and streams only as far as the first bridge.

18 1. Prohibition on application of pesticides. A person may
20 not apply a pesticide to control browntail moths on shade or
ornamental trees within 50 feet of the mean high water mark in
coastal areas.

22 2. Restrictions on applications between 50 and 250 feet of
24 mean high water mark. A person may not apply a pesticide to
26 control browntail moths on shade or ornamental trees in coastal
areas located between 50 and 250 feet from the mean high water
mark except in accordance with this subsection.

28 A. Only products with the active ingredients diflubenzuron,
30 permethrin, tau-fluvalinate or cyfluthrin may be applied.

32 B. Applications may be performed only with a hydraulic
34 hand-held spray gun.

36 C. Applications may be performed only in a manner in which
the applicator directs the spray away from marine waters.

38 D. Applications may not be made when the wind is blowing
40 toward marine waters.

42 3. Notification and submission of records. A commercial
44 applicator, as defined in section 1471-C, subsection 5, shall
notify the Board of Pesticides Control within the Department of
Agriculture, Food and Rural Resources in advance of dates planned
for spraying pesticides to control browntail moths in coastal
areas. Upon request of the board, a commercial applicator shall
submit spray records for such applications.

48 4. Exemption. The prohibitions and restrictions in this
50 section do not apply to biological pesticides or to the injection

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2 of pesticides directly into the soil or into shade and ornamental
3 trees.

4 **5. Repeal.** This section is repealed March 31, 2007.

6 **Sec. 3. Board of Pesticides Control; monitoring project; report.** The
7 Department of Agriculture, Food and Rural Resources, Board of
8 Pesticides Control shall develop a plan for monitoring hydraulic
9 spray applications of pesticides allowed under the Maine Revised
10 Statutes, Title 22, section 1445, subsection 2 to control
11 browntail moths in coastal areas. Monitoring must occur on
12 selected sites where applications are allowed under that
13 subsection.

14 The Department of Agriculture, Food and Rural Resources,
15 Board of Pesticides Control, in consultation with an
16 environmental risk advisory committee and the Lobster
17 Conservancy, shall complete an assessment of risks and benefits
18 relating to pesticide applications near marine waters. The board
19 shall report its findings and recommendations to the joint
20 standing committee of the Legislature having jurisdiction over
21 agriculture, conservation and forestry matters by January 2, 2007.

22 **Sec. 4. Legislation authorized.** The joint standing committee of
23 the Legislature having jurisdiction over agriculture,
24 conservation and forestry matters may report out legislation to
25 the First Regular Session of the 123rd Legislature relating to
26 the application of pesticides near marine waters to control
27 browntail moths.

28 **Emergency clause.** In view of the emergency cited in the
29 preamble, this Act takes effect when approved.'

34 **SUMMARY**

35 This amendment replaces the bill. It establishes buffers
36 and restrictions on the application of pesticides to control
37 browntail moths in coastal areas of Cumberland, Sagadahoc and
38 York counties. These provisions are repealed March 31, 2007.
39 This amendment directs the Department of Agriculture, Food and
40 Rural Resources, Board of Pesticides Control to monitor certain
41 pesticide applications and to complete its assessment of risks
42 and benefits of pesticide applications near coastal waters and to
43 report to the joint standing committee of the Legislature having
44 jurisdiction over agriculture, conservation and forestry matters
45 by January 2, 2007. It authorizes the committee to report out

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2 legislation to the 123rd Legislature on pesticide applications in
coastal areas.

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FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 1657

LR 2342(02)

An Act to Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Agriculture, Conservation and Forestry
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds