

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1111, L.D. 1573, Bill, "An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws"

Amend the bill in section 2 by striking out all of the last blocked paragraph (page 2, lines 9 to 16 in L.D.) and inserting the following:

~~'For purposes of this subsection, "annual income" means the sum of all the property owner's federal taxable income for the previous year for single family dwellings, gross profits for the previous year for commercial establishments and gross rents for the previous year for rental properties, as listed on the relevant federal income tax returns.~~

For purposes of this subsection, annual income is determined separately for residential property owners and commercial establishments. For a residential property owner, including a trust, "annual income" means the sum of the taxable incomes of each owner of the property if it is jointly owned or of each beneficiary and grantor if the property owner is a trust for the previous year as listed on the relevant federal income tax returns for the previous year. For a commercial establishment, "annual income" means taxable income or ordinary business income for the previous year as listed on the relevant federal income tax return plus any depreciation or other noncash expense that was deducted to compute taxable or ordinary business income on that return. A rental property must be considered a commercial establishment or as contributing to annual income depending on how it is reported on the overboard discharge owner's federal income tax return from the previous year.'

Amend the bill in section 4 in subsection 3-A in the first paragraph by striking out all of the last sentence (page 3, lines 6 to 9 in L.D.) and inserting the following: 'For purposes of this subsection, "significant action" means a single construction project performed on a primary residence with an overboard discharge when the total material and labor cost of the construction project exceeds \$50,000. "Significant action" does not include construction that makes the residence accessible to a person with a disability who resides in or regularly uses the residence or reconstruction performed in response to an

1 event beyond the control of the owner, such as a hurricane, flood, fire or the unanticipated
2 physical destruction of the residence.'

3 Amend the bill in section 4 in subsection 3-A by striking out all of paragraph B (page
4 3, lines 20 to 44 and page 4, lines 1 to 3 in L.D.) and inserting the following:

5 'B. If there is a transfer, or if a significant action is proposed, the owner of an
6 overboard discharge must conduct an alternatives analysis and may be required to
7 remove the overboard discharge system as provided in this paragraph.

8 (1) Except when it has been demonstrated within 5 years prior to a transfer, or
9 some other time period acceptable to the department, that there is no
10 technologically proven alternative to an overboard discharge, prior to transfer of
11 ownership of property containing an overboard discharge, the parties to the
12 transfer shall determine the feasibility of technologically proven alternatives to
13 the overboard discharge that are consistent with the plumbing standards adopted
14 by the Department of Health and Human Services pursuant to Title 22, section
15 42.

16 (2) Except when it has been demonstrated within 5 years prior to the significant
17 action, or some other time period acceptable to the department, that there is no
18 technologically proven alternative to an overboard discharge, prior to the
19 significant action the owner of the overboard discharge shall determine the
20 feasibility of a technologically proven alternative to the overboard discharge that
21 is consistent with the plumbing standards adopted by the Department of Health
22 and Human Services pursuant to Title 22, section 42.

23 (3) The determination concerning whether there is a technologically proven
24 alternative to an overboard discharge must be based on documentation from a
25 licensed site evaluator provided by the applicant and approved by the Department
26 of Environmental Protection that the system constitutes a best practicable
27 treatment under section 414-A, subsection 1-B. If an alternative to the overboard
28 discharge is identified, the alternative system must be installed within 90 days of
29 property transfer or significant action, except that, if soil conditions are poor due
30 to seasonal weather, the alternative may be installed as soon as soil conditions
31 permit. The installation of an alternative to the overboard discharge may be
32 eligible for funding under section 411-A. On a property transfer, a commercial
33 establishment may request an extension of the 90-day period based on
34 information that an extension is necessary due to technical, economic or
35 environmental considerations. The department may authorize an extension for a
36 commercial establishment for as short an additional period as the department
37 considers reasonable but in no case may an extension be authorized to continue
38 beyond the expiration of the current waste discharge license or 2 years from the
39 property transfer, whichever is later. Within 10 business days of receipt of a
40 complete extension request, the department shall issue a written decision
41 approving or denying the extension.

42 Nothing in this paragraph requires a municipality to withhold a local permit or
43 approval associated with a significant action until the provisions of this paragraph
44 have been met.'

1 Amend the bill in section 5 in subsection 1-B in paragraph A by inserting after
2 subparagraph (3) the following:

3 '(4) If a technologically proven alternative system for an overboard discharge
4 from a residence is identified and is not eligible for grant funding according to
5 the cost-share schedule under section 411-A, subsection 2-A and the overboard
6 discharge is subject to a license that expires on or after July 2, 2010 and prior to
7 July 2, 2012, the department may not require the alternative to be installed earlier
8 than July 2, 2012.

9 '(5) If a technologically proven alternative system for an overboard discharge
10 from a commercial establishment is identified and is not eligible for grant
11 funding according to the cost-share schedule under section 411-A, subsection
12 2-A and the overboard discharge is subject to a license that expires on or after
13 July 2, 2010 and prior to July 2, 2012, the department may not require the
14 alternative to be installed earlier than July 2, 2012.'

15 Amend the bill in section 5 in subsection 1-B by inserting after paragraph E the
16 following:

17 'F. For the purposes of this subsection, the department may not require the
18 installation or use of an identified technologically proven alternative system unless
19 the department finds that the identified alternative constitutes best practicable
20 treatment under subsection 1, paragraph D.'

21 Amend the bill in section 6 in subsection 2 in the 5th line (page 5, line 27 in L.D.) by
22 inserting after the following: "tide." the following: 'If a marina serves vessels year-
23 round, the provisions of this subsection apply to the marina year-round.'

24 SUMMARY

25 The amendment amends the definition of "annual income" for purposes of
26 determining eligibility for grants to pay a portion of the cost of an alternative to an
27 overboard discharge system. It amends the definition of "significant action." It allows
28 commercial establishments to request an extension of time to install an alternative to an
29 overboard discharge when transferring ownership and requires the Department of
30 Environmental Protection to approve or deny the extension request within 10 business
31 days. It provides that the law does not require a municipality to withhold a local permit
32 or approval associated with a significant action. It prohibits the Department of
33 Environmental Protection from requiring an identified alternative to an overboard
34 discharge to be installed earlier than July 2, 2012 if a residential or commercial
35 establishment has an overboard discharge that is not eligible for a grant and has a license
36 that expires on or before July 2, 2010 and prior to July 2, 2012. It prohibits the
37 Department of Environmental Protection from requiring an identified alternative to an
38 overboard discharge to be installed unless the alternative constitutes best practicable
39 treatment. It requires marinas that serve vessels year-round to provide pump-out services
40 year-round.

41 FISCAL NOTE REQUIRED

42 (See attached)



Approved: 03/16/10 *mac*

124th MAINE LEGISLATURE

LD 1573

LR 2264(02)

An Act To Improve Water Quality through the Phaseout of Overboard Discharges and the Improvement of the Boat Pump-out Laws

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

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Future biennium cost increase - General Fund

Fiscal Detail and Notes

This bill requires the Department of Environmental Protection (DEP) to pay, subject to the availability of funds, a portion of the cost of converting overboard discharge systems to waste-reducing alternative systems if certain criteria are met. The DEP estimates that if 40% of the existing 1350 OBDs have alternative systems at an average cost of \$25,000 each and the state share is 65%, the total cost of these grants would be approximately \$8,775,000. Typically, state participation in costs of this nature have been paid from bond proceeds. Currently, available bond proceeds are limited and no provision is made in this bill for a new bond issue. As a result, additional legislation will be required to create a bond issue or provide a General Fund appropriation to fund these costs. In separate legislation LD 1816 proposes \$500,000 in bonds for overboard discharge.

Any additional costs to the DEP associated with authorizations, issuance of written decisions or making findings of fact can be absorbed within existing budgeted resources.