

# MAINE STATE LEGISLATURE

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L.D. 1022

Date: 5/2/11

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Majority

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

125TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 758, L.D. 1022, Bill, "An Act To Amend the Law Concerning Overboard Discharge Systems"

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

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

**Sec. 1. 38 MRSA §413, sub-§3**, as amended by PL 2009, c. 654, §3, is further amended to read:

**3. Transfer of ownership.** Application for transfer of a license must be made no later than 2 weeks after the transfer of ownership or interest in the source of the discharge is completed. If a person possessing a license issued by the department transfers the ownership of the property, facility or structure that is the source of a licensed discharge, without transfer of the license being approved by the department, the license granted by the department continues to authorize a discharge within the limits and subject to the terms and conditions stated in the license, except that the parties to the transfer are jointly and severally liable for any violation until such time as the department approves transfer or issuance of a waste discharge license to the new owner. The department may in its discretion require the new owner to apply for a new license, or may approve transfer of the existing license upon a satisfactory showing that the new owner can abide by its terms and conditions.

Except when it has been demonstrated within 5 years prior to a transfer, or some other time period acceptable to the department, that there is no technologically proven alternative to an overboard discharge, prior to transfer of ownership of property containing an overboard discharge, the parties to the transfer shall determine the feasibility of technologically proven alternatives to the overboard discharge that are consistent with the plumbing standards adopted by the Department of Health and Human Services pursuant to Title 22, section 42 based on documentation from a licensed site evaluator provided by the applicant and approved by the Department of Environmental Protection. The licensed site evaluator shall demonstrate experience in designing

**COMMITTEE AMENDMENT**

1 replacement systems for overboard discharge. If an alternative to the overboard  
2 discharge is identified, the alternative system must be installed within 90 days of property  
3 transfer, except that, if soil conditions are poor due to seasonal weather, the alternative  
4 may be installed as soon as soil conditions permit. The installation of an alternative to  
5 the overboard discharge may be eligible for funding under section 411-A.

6 This subsection applies to overboard discharge licenses issued before September 1, 2010.

7 **Sec. 2. 38 MRSA §413, sub-§3-A, ¶¶A and B**, as enacted by PL 2009, c. 654,  
8 §4, are amended to read:

9 A. Application for transfer of an overboard discharge license must be made no later  
10 than 2 weeks after the transfer of ownership or interest in the source of the discharge  
11 is completed. If a person possessing a license issued by the department transfers the  
12 ownership of the property, facility or structure that is the source of a licensed  
13 discharge without transfer of the license being approved by the department, the  
14 license granted by the department continues to authorize a discharge within the limits  
15 and subject to the terms and conditions stated in the license as long as the parties to  
16 the transfer are jointly and severally liable for any violation thereof until such time as  
17 the department approves transfer or issuance of a waste discharge license to the new  
18 owner. The department may in its discretion require the new owner to apply for a  
19 new license or may approve transfer of the existing license upon a satisfactory  
20 showing that the new owner can abide by its terms and conditions.

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

24 (1) Except when it has been demonstrated within 5 years prior to a transfer, or  
25 some other time period acceptable to the department, that there is no  
26 technologically proven alternative to an overboard discharge, prior to transfer of  
27 ownership of property containing an overboard discharge, the parties to the  
28 transfer shall determine the feasibility of technologically proven alternatives to  
29 the overboard discharge that are consistent with the plumbing standards adopted  
30 by the Department of Health and Human Services pursuant to Title 22, section  
31 42.

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

39 (3) The determination concerning whether there is a technologically proven  
40 alternative to an overboard discharge must be based on documentation from a  
41 licensed site evaluator provided by the applicant and approved by the Department  
42 of Environmental Protection that the system constitutes a best practicable  
43 treatment under section 414-A, subsection 1-B. If an alternative to the overboard  
44 discharge is identified, the alternative system must be installed within 90 180

1 days of property transfer or significant action, except that, if soil conditions are  
2 poor due to seasonal weather, the alternative may be installed as soon as soil  
3 conditions permit. The installation of an alternative to the overboard discharge  
4 may be eligible for funding under section 411-A. On a property transfer, a  
5 commercial establishment may request an extension of the ~~90-day~~ 180-day period  
6 based on information that an extension is necessary due to technical, economic or  
7 environmental considerations. The department may authorize an extension for a  
8 commercial establishment for as short an additional period as the department  
9 considers reasonable but in no case may an extension be authorized to continue  
10 beyond the expiration of the current waste discharge license or 2 years from the  
11 property transfer, whichever is later. Within 10 business days of receipt of a  
12 complete extension request, the department shall issue a written decision  
13 approving or denying the extension.

14 (4) When the ownership of a property containing an overboard discharge has  
15 been transferred, the transferee may request from the department a waiver from  
16 the requirement in subparagraph (3) to install an alternative system. The  
17 department shall grant the waiver upon demonstration by the transferee that the  
18 transferee's annual income as defined in section 411-A, subsection 2-A is less  
19 than \$25,000. A request for a waiver must be submitted with an application for  
20 transfer of the overboard discharge license in accordance with paragraph A.

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

24 **SUMMARY**

25 This amendment replaces the bill. The bill removes the requirement that, prior to  
26 transferring ownership of property containing an overboard discharge system, the parties  
27 to the transfer must determine the feasibility of technologically proven alternatives to the  
28 overboard discharge system and install an alternative system if one is identified. The  
29 amendment retains that requirement but makes several changes to it. The amendment  
30 allows a transferee with an annual income of less than \$25,000 to request a waiver from  
31 the requirement to install an alternative system. The amendment increases the time  
32 frame, from 90 days of property transfer or significant action to 180 days of property  
33 transfer or significant action, within which an alternative system to the overboard  
34 discharge must be installed. The amendment also makes 2 technical corrections to the  
35 law. First, it clarifies that an application for transfer of an overboard discharge license  
36 must be made no later than 2 weeks after the transfer of ownership and, second, it  
37 clarifies that the sentence in the Maine Revised Statutes, Title 38, section 413, subsection  
38 3 that limits application of the subsection to licenses issued before September 1, 2010  
39 only applies to overboard discharge licenses, not all licenses issued by the Department of  
40 Environmental Protection.

**FISCAL NOTE REQUIRED**  
(See attached)



# 125th MAINE LEGISLATURE

LD 1022

LR 838(02)

## An Act To Amend the Law Concerning Overboard Discharge Systems

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

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - Other Special Revenue Funds

#### Fiscal Detail and Notes

Requiring the Department of Environmental Protection (DEP) to grant a waiver for a required alternative overboard discharge system when the transferee of such a system has annual income of less than \$25,000 may result in minor administrative costs to the DEP that can be absorbed within existing budgeted resources.