

# MAINE STATE LEGISLATURE

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Majority

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Date: 5/26/11

L.D. 1398  
(Filing No. H-369)

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. 1027, L.D. 1398, Bill, "An Act To Amend the Laws Administered by the Department of Environmental Protection"

Amend the bill by inserting after the title and before the enacting clause the following:

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

**Whereas,** this legislation corrects a water quality classification that will enable the United States Army Corps of Engineers to dredge under a permit issued by the Department of Environmental Protection, and the dredging must be completed prior to the expiration of the 90-day period; 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,'

Amend the bill in section 5 in §343-D in subsection 1 by striking out all of paragraphs A to C (page 1, lines 35 and 36 and page 2, lines 1 to 11 in L.D) and inserting the following:

'A. The Governor shall appoint 2 representatives from the business community, 2 elected or appointed municipal officials who are not owners or representatives of owners of small business stationary sources, and 2 representatives of organized labor and 2 representatives from the department.

B. The President of the Senate shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

C. The Speaker of the House of Representatives shall appoint one member from a public health organization, one member from an environmental organization and one

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to H.P. 1027, L.D. 1398

1 public member who is an owner or represents an owner of a small business stationary  
2 source.'

3 Amend the bill in section 6 in §343-D in subsection 1 by striking out all of  
4 paragraphs A to C (page 4, lines 10 to 22 in L.D) and inserting the following:

5 'A. The Governor shall appoint 2 representatives from the business community, 2  
6 elected or appointed municipal officials who are not owners or representatives of  
7 owners of small business stationary sources, and 2 representatives of organized labor  
8 and 2 representatives from the department.

9 B. The President of the Senate shall appoint one member from a public health  
10 organization, one member from an environmental organization and one public  
11 member who is an owner or represents an owner of a small business stationary  
12 source.

13 C. The Speaker of the House of Representatives shall appoint one member from a  
14 public health organization, one member from an environmental organization and one  
15 public member who is an owner or represents an owner of a small business stationary  
16 source.'

17 Amend the bill in section 14 in paragraph A in the 5th line (page 15, line 13 in L.D.)  
18 by striking out the following: "one year" and inserting the following: '2 years'

19 Amend the bill in section 19 in §584-A in the last line (page 17, line 13 in L.D.) by  
20 inserting after the following: "amended." the following: "The department shall  
21 implement ambient air quality standards as required by the federal Clean Air Act, 42  
22 United States Code, Section 7409 and regulations promulgated under that section by the  
23 United States Environmental Protection Agency. Nothing in this section may be  
24 construed to limit the authority of the department to adopt emission standards designed to  
25 achieve and maintain ambient air quality standards.'

26 Amend the bill by inserting after section 19 the following:

27 '**Sec. 20. 38 MRSA §1303-C, sub-§6, ¶E**, as enacted by PL 1999, c. 525, §1, is  
28 repealed and the following enacted in its place:

29 E. A solid waste facility owned and controlled by a single entity that:

30 (1) Generates at least 85% of the solid waste disposed of at a facility, except that  
31 the facility may accept from other sources, on a nonprofit basis, an amount of  
32 solid waste that is no more than 15% of all solid waste accepted on an annual  
33 basis; or

34 (2) Is an owner of a manufacturing facility that has, since January 1, 2006,  
35 generated at least 85% of the solid waste disposed of at the solid waste facility,  
36 except that one or more integrated industrial processes of the manufacturing  
37 facility are no longer in common ownership, and those integrated industrial  
38 processes will continue to generate waste that will continue to be disposed of at  
39 the solid waste facility. This exemption only applies if the source and type of  
40 waste disposed of at the solid waste facility remains the same as that previously  
41 disposed of by the single entity.

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1 For the purposes of this paragraph, "single entity" means an individual, partnership,  
2 corporation or limited liability corporation that is not engaged primarily in the  
3 business of treating or disposing of solid waste or special waste. This paragraph does  
4 not apply if an individual partner, shareholder, member or other ownership interest in  
5 the single entity disposes of waste in the solid waste facility. A waste facility  
6 receiving ash resulting from the combustion of municipal solid waste or refuse-  
7 derived fuel is not exempt from this subsection solely by operation of this paragraph.

8 For purposes of this paragraph, "integrated industrial processes" means  
9 manufacturing processes, equipment or components, including, but not limited to,  
10 energy generating facilities, that when used in combination produce one or more  
11 manufactured products for sale; or'

12 Amend the bill by inserting after section 21 the following:

13 **'Sec. 22. 38 MRSA §1393, sub-§2, ¶B,** as enacted by PL 2007, c. 569, §6, is  
14 amended to read:

15 B. The replacement or expansion of an underground oil storage facility in existence  
16 on September 30, 2001 or a facility identified in subsection 1, paragraph B in  
17 existence on September 30, 2008 as long as the replacement or expansion occurs on  
18 the same property and, the facility meets all applicable requirements of law; and, in  
19 the case of replacement, the facility owner:

20 (1) Within 30 days after removal of the existing facility, notifies the  
21 commissioner and municipal code enforcement officer in writing of the owner's  
22 intent to replace the facility; and

23 (2) Commences construction of the replacement facility within 2 years after  
24 removal of the existing facility;

25 **Sec. 23. 38 MRSA §1661-C, sub-§9, ¶A,** as amended by PL 2009, c. 501, §22,  
26 is further amended to read:

27 A. After ~~June 30~~ December 31, 2011, a person may not sell or offer to sell or  
28 distribute for promotional purposes a mercury-added button cell battery identified in  
29 this paragraph or a product that contains a mercury-added button cell battery  
30 identified in this paragraph:

31 (1) A zinc-air button cell battery;

32 (2) An alkaline manganese button cell battery; or

33 (3) A silver oxide button cell battery stamped with the designation 357, 364,  
34 371, 377, 395, SR44W, SR621SW, SR626SW, SR920SW or SR927SW or a  
35 silver oxide button cell battery that is interchangeable with a battery that is  
36 stamped with one of those designations; and'

37 Amend the bill by inserting at the end before the summary the following:

38 **'Emergency clause.** In view of the emergency cited in the preamble, this  
39 legislation takes effect when approved.'

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COMMITTEE AMENDMENT "A" to H.P. 1027, L.D. 1398

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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment, which is the majority report of the committee, makes the following changes to the bill.

- 1. It adds an emergency preamble and clause.
- 2. It retains the current authority of the President of the Senate and Speaker of the House to appoint members to the Pollution Prevention and Small Business Assistance Advisory Panel. The bill proposes to move the authority to appoint 4 members to the Governor.
- 3. It amends the law on registration of underground oil storage tanks to require that the tanks be registered within 2 years preceding installation, instead of within one year as proposed in the bill.
- 4. It clarifies that the authority of the Department of Environmental Protection to adopt emission standards designed to achieve ambient air quality standards is not limited by language in the bill that references the federal Clean Air Act.
- 5. It adds a provision that amends the single entity ownership exception contained in the definition of "commercial solid waste disposal facility."
- 6. It adds a provision that amends the laws governing wellhead protection to address the removal and replacement of grandfathered facilities in wellhead protection zones.
- 7. It adds a provision that delays the effective date of Maine's ban on the sale of mercury-added button cell batteries.

**FISCAL NOTE REQUIRED**

(See attached)



# 125th MAINE LEGISLATURE

LD 1398

LR 235(02)

An Act To Amend the Laws Administered by the Department of Environmental Protection

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 savings - General Fund  
Minor revenue decrease - General Fund  
Minor cost increase - Other Special Revenue Funds

### Correctional and Judicial Impact Statements

Decreases the number of civil violations.

A reduction in fines will decrease General Fund revenue by minor amounts.

### Fiscal Detail and Notes

Any additional costs associated with the various provisions and administrative changes in this bill can be absorbed by the Department of Environmental Protection within existing budgeted resources.