

MAINE STATE LEGISLATURE

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Min

SWM
R. DE

L.D. 1398

Date: 5/26/11

(Filing No. H-370)

Minority

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1027, L.D. 1398, Bill, "An Act To Amend the Laws Administered by the Department of Environmental Protection"

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

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

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1 C. The Speaker of the House of Representatives shall appoint one member from a
2 public health organization, one member from an environmental organization and one
3 public member who is an owner or represents an owner of a small business stationary
4 source.'

5 Amend the bill in section 11 in §469 in subsection 5 by striking out all of paragraph
6 B (page 11, lines 33 to 38 and page 12, lines 1 to 5) and inserting the following:

7 'B. Phippsburg.

8 (1) Tidal waters east of longitude 69°-50'-05" W. and west of longitude 69°-47'-
9 00" W. - Class SA.

10 (2) Tidal waters of The Basin, including The Narrows east of a line drawn
11 between 69°-51'-57" W. and 43°-48'-14" N. - Class SA.'

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

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

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

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23 repealed and the following enacted in its place:

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

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

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

37 For the purposes of this paragraph, "single entity" means an individual, partnership,
38 corporation or limited liability corporation that is not engaged primarily in the
39 business of treating or disposing of solid waste or special waste. This paragraph does
40 not apply if an individual partner, shareholder, member or other ownership interest in
41 the single entity disposes of waste in the solid waste facility. A waste facility

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1 receiving ash resulting from the combustion of municipal solid waste or refuse-
2 derived fuel is not exempt from this subsection solely by operation of this paragraph.

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

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

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

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

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

18 (2) Commences construction of the replacement facility within 2 years after
19 removal of the existing facility;

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

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

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

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

28 (3) A silver oxide button cell battery stamped with the designation 357, 364,
29 371, 377, 395, SR44W, SR621SW, SR626SW, SR920SW or SR927SW or a
30 silver oxide button cell battery that is interchangeable with a battery that is
31 stamped with one of those designations; and'

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

34 SUMMARY

35 This amendment, which is the minority report of the committee, makes the following
36 changes to the bill.

37 1. It retains the current authority of the President of the Senate and Speaker of the
38 House to appoint members to the Pollution Prevention and Small Business Assistance

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Advisory Panel. The bill proposes to move the authority to appoint 4 members to the Governor.

2. It removes the provisions in the bill that amend the laws governing the classification of estuarine and marine waters in Phippsburg.

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.

This amendment differs from the majority report of the committee by removing the emergency preamble and the provisions in the bill that amend the laws governing the classification of estuarine and marine waters in Phippsburg.

FISCAL NOTE REQUIRED
(See attached)

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125th MAINE LEGISLATURE

LD 1398

LR 235(03)

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

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

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

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.