

# MAINE STATE LEGISLATURE

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Date: 3-30-16

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**ENVIRONMENT AND NATURAL RESOURCES**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE**

**SENATE**

**127TH LEGISLATURE**

**SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 626, L.D. 1578, Bill, "An Act To Update Maine's Solid Waste Management Laws"

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

'Sec. 1. 38 MRSA §1611 is enacted to read:

**§1611. Stewardship program for batteries**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Approved product" means:

(1) A covered battery or a covered battery-containing product for which its producer, individually or through a covered battery stewardship organization, has submitted a covered battery stewardship plan approved by the commissioner and the plan has been implemented to collect and recycle covered batteries in accordance with the plan; or

(2) A covered battery-containing product that has been listed in accordance with subsection 9 as the product of a participant in a covered battery stewardship program.

B. "Brand" means a trademark, including both a registered and an unregistered trademark, a logo, a name, a symbol, a word, an identifier or a traceable mark that identifies a covered battery or covered battery-containing product and identifies as the producer of the battery or product the owner or licensee of the brand.

C. "Covered battery" means a new or unused primary battery or a new or unused rechargeable battery.

D. "Covered battery-containing product" means a new or unused product that contains or is packaged with a primary battery or a rechargeable battery. "Covered battery-containing product" does not include:

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- 1           (1) A product from which the primary battery or rechargeable battery is not  
2           easily removed or is not intended or designed to be removed from the product by  
3           a consumer;
- 4           (2) A medical device, as described in the Federal Food, Drug and Cosmetic Act,  
5           21 United States Code, Section 321(h) (2009), if, when the device or battery  
6           within the device is discarded, it must be treated as biomedical waste or if  
7           changing the supplier of the battery contained in the medical device would trigger  
8           the need for premarket review of the device with the United States Food and  
9           Drug Administration pursuant to the Federal Food, Drug and Cosmetic Act, 21  
10           United States Code, Section 360 (2012), unless such device is listed as an exempt  
11           device under the Federal Food, Drug and Cosmetic Act, 21 United States Code,  
12           Section 360(m) (2012) or other applicable provision of law; or
- 13           (3) A device related to the physical or ancillary operation or use of a motor  
14           vehicle that is distributed through a new vehicle dealer franchised by the original  
15           manufacturer of the motor vehicle. As used in this subparagraph, "motor  
16           vehicle" has the same meaning as in Title 29-A, section 101, subsection 42 and  
17           "new vehicle dealer" has the same meaning as in Title 29-A, section 851,  
18           subsection 9.
- 19           E. "Covered battery stewardship organization" or "organization" means an  
20           organization appointed by more than one producer to design, submit a plan for,  
21           implement and administer a covered battery stewardship program in accordance with  
22           this section and that has accepted that appointment.
- 23           F. "Covered battery stewardship plan" or "plan" means a plan submitted to the  
24           commissioner in accordance with subsection 3 by a producer or a covered battery  
25           stewardship organization.
- 26           G. "Covered battery stewardship program" or "program" means a system  
27           implemented for the collection, transportation, recycling and disposal of covered  
28           batteries in accordance with a covered battery stewardship plan approved under  
29           subsection 4.
- 30           H. "Discarded covered battery" means a covered battery that a user discarded,  
31           abandoned or sent for recycling.
- 32           I. "Operator" means a producer or covered battery stewardship organization that  
33           implements and administers a covered battery stewardship program.
- 34           J. "Participant" means a producer that establishes or participates in a covered battery  
35           stewardship program individually or by appointing and having that appointment  
36           accepted by a covered battery stewardship organization to operate the program on the  
37           producer's behalf.
- 38           K. "Primary battery" means a nonrechargeable battery that weighs 2 kilograms or  
39           less, including, but not limited to, nonrechargeable alkaline, carbon-zinc and lithium  
40           metal batteries.
- 41           L. "Producer" means, with respect to a covered battery or covered battery-containing  
42           product that is sold, offered for sale or distributed for sale in the State, the following:

1 (1) The person subject to the jurisdiction of the State, or that has voluntarily  
2 agreed to recognize the jurisdiction of the State for the purposes of this section,  
3 that manufactures the covered battery or covered battery-containing product and  
4 sells or offers for sale in the State that battery or product under the person's own  
5 brand;

6 (2) If there is no person to which subparagraph (1) applies, the owner or licensee  
7 of a brand under which the covered battery or covered battery-containing product  
8 is sold or distributed in the State that is subject to the jurisdiction of the State; or

9 (3) If there is no person to which subparagraph (1) or (2) applies, a person  
10 subject to the jurisdiction of the State that imports the covered battery or covered  
11 battery-containing product into the United States for sale or distribution in the  
12 State.

13 M. "Rechargeable battery" means a battery that contains one or more voltaic or  
14 galvanic cells, electrically connected to produce electric energy, that weighs less than  
15 5 kilograms and that is designed to be recharged and to provide less than 40 volts  
16 direct current. "Rechargeable battery" does not include:

17 (1) A battery that is not easily removed or is not intended or designed to be  
18 removed from a covered battery-containing product by a consumer;

19 (2) A battery that contains electrolyte as a free liquid; or

20 (3) A battery or battery pack that employs lead-acid technology, unless the  
21 battery or battery pack is sealed, contains no liquid electrolyte and is intended by  
22 its manufacturer to power a handheld device or to provide uninterrupted backup  
23 electrical power protection for stationary, consumer covered battery-containing  
24 products or stationary office equipment.

25 N. "Recycling" means any process through which a discarded covered battery or its  
26 components or by-products is transformed from its original identity or form into new  
27 usable or marketable material. "Recycling" does not include the incineration of a  
28 discarded covered battery or its components or by-products for energy recovery.

29 O. "Retailer" means a person that sells or offers a covered battery or covered battery-  
30 containing product for retail sale, as defined in Title 36, section 1752, subsection 11,  
31 in the State, including through a remote offering for sale, such as a sales outlet or  
32 sales catalog or via the Internet.

33 P. "Wholesaler" means a person that offers for sale or sells in the State a covered  
34 battery or covered battery-containing product in a sale that is not a retail sale, as  
35 defined in Title 36, section 1752, subsection 11, with the intention that the battery or  
36 product be resold in a subsequent retail sale.

37 2. Product labeling. By January 1, 2018, a producer that sells, offers for sale or  
38 distributes for sale in the State a covered battery, either as a replacement battery or  
39 packaged with or contained in a covered battery-containing product, shall, to the extent  
40 feasible, ensure that the covered battery is labeled in a manner identifying the chemistry  
41 employed in storing energy in the battery to facilitate sorting of discarded covered  
42 batteries by recyclers.

1           3. Submission of plan. No later than 6 months after the effective date of this  
2 section, except as specified in subsection 6, 9 or 10, each producer of a covered battery or  
3 covered battery-containing product, individually or through a covered battery stewardship  
4 organization that has agreed to act on the producer's behalf, shall submit a plan for the  
5 establishment of a covered battery stewardship program to the commissioner for  
6 approval. The plan must include, at a minimum and as applicable:

7           A. If the plan is submitted by a producer, identification and contact information for  
8 the producer and a list of the owners of the brands of covered batteries and covered  
9 battery-containing products to be included in the program;

10           B. If the plan is submitted by an organization, identification and contact information  
11 for the organization and for each producer participating in the organization, a list of  
12 the owners of the brands of covered batteries and covered battery-containing products  
13 to be included in the program and a description of the organization and the tasks to be  
14 performed by the organization, including information on how the organization is  
15 organized, including administration and management of the organization;

16           C. A description of how the program will provide convenient, free, statewide  
17 collection opportunities for discarded covered batteries and how the convenience and  
18 adequacy of the collection system will be monitored and maintained;

19           D. The criteria to be used by the program in determining whether an entity may serve  
20 as a collection location for discarded covered batteries under the program. The plan  
21 must allow any retailer, wholesaler, municipality, solid waste management facility  
22 and other entity that meets such criteria to voluntarily serve as a collection location;

23           E. The names and locations of recyclers, processors and disposal facilities and other  
24 entities that may be used by the program for the collection or recycling of discarded  
25 covered batteries, including a description of the manner by which the program will  
26 use covered battery collection locations that are established through other battery  
27 collection programs;

28           F. Information on how discarded covered batteries collected through the program  
29 will be safely and securely transported, tracked and handled from collection through  
30 final disposition;

31           G. A description of the method to be used to ensure that, to the extent economically  
32 and technically feasible, collected discarded covered batteries are recycled or  
33 otherwise responsibly managed;

34           H. A description of how the amounts of discarded covered batteries collected,  
35 recycled, processed, reused and disposed of will be measured;

36           I. A description of the education and outreach methods and activities that will be  
37 used to provide notice of and encourage participation in the program by consumers,  
38 businesses, local agencies, retailers, wholesalers and waste transportation services;

39           J. Any performance goals established by the producer or organization to measure the  
40 success of the program; and

41           K. A description of how the program will be financed. If the plan is submitted by an  
42 organization, the financing method through which the program will be funded must:

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1 (1) Allocate to producers of primary batteries and covered battery-containing  
2 products containing or packaged with primary batteries costs that are directly  
3 attributable to the recycling of primary batteries, such as reclamation costs;

4 (2) Allocate to producers of rechargeable batteries and covered battery-  
5 containing products containing or packaged with rechargeable batteries costs that  
6 are directly attributable to the recycling of rechargeable batteries, such as  
7 reclamation costs; and

8 (3) Allocate all other costs on the basis of the weights of types of batteries  
9 collected or some other nondiscriminatory basis acceptable to participating  
10 producers of primary batteries, rechargeable batteries and covered battery-  
11 containing products.

12 **4. Approval of plan.** The commissioner shall review a plan submitted under  
13 subsection 3 and make a determination of whether to approve the plan within 90 days of  
14 receipt of the plan. In conducting a review of a submitted plan, the commissioner may  
15 consult with producers, associations representing producers, covered battery stewardship  
16 organizations, retailers and recyclers.

17 A. If the commissioner determines that a submitted plan fails to meet all applicable  
18 requirements of subsection 3, the commissioner shall provide to the producer or  
19 organization that submitted the plan a written notice of determination describing the  
20 reasons for rejecting the plan. No later than 45 days after receiving a written notice of  
21 determination from the commissioner rejecting a submitted plan, the producer or  
22 organization may amend the plan and resubmit the plan to the commissioner for  
23 reconsideration. The commissioner shall review an amended plan, make a  
24 determination of whether to approve the amended plan and provide a written notice  
25 of determination notifying the producer or organization of the commissioner's  
26 decision within 45 days of receipt of the amended plan. A producer or organization  
27 whose amended plan is rejected by the commissioner may appeal the commissioner's  
28 decision in accordance with sections 341-D and 346.

29 B. If the commissioner approves a submitted plan, the commissioner shall provide to  
30 the producer or organization that submitted the plan a written notice of determination  
31 of the plan's approval. No later than 30 days after receiving a written notice of  
32 determination from the commissioner approving a submitted plan, the producer or  
33 organization shall make the approved plan available on its publicly accessible  
34 website, but is not required to make available any information contained in the  
35 approved plan that has been designated as proprietary information in accordance with  
36 subsection 14.

37 C. No later than 45 days after the commissioner's approval of a submitted plan, the  
38 department shall make available on its publicly accessible website a list of  
39 participants in and brands of covered batteries and covered battery-containing  
40 products included under the approved plan or provide instructions on how to obtain  
41 such information as provided by the producer or organization that submitted the plan.

42 **5. Implementation of plan.** A producer or organization that submitted a plan  
43 approved by the commissioner under subsection 4 shall implement the plan no later than  
44 the first day of the next calendar quarter after the date the plan is approved by the

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1 commissioner, except that if the period of time between the date the plan is approved and  
2 the first day of the next calendar quarter is less than 60 days, the producer or organization  
3 shall implement the plan within 60 days after the date the plan is approved.

4 **6. Amendment of plan and termination of program.** This subsection governs  
5 amendment of a plan approved under subsection 4 and termination of a program  
6 established under an approved plan.

7 A. An approved plan may be amended at the discretion of the producer or  
8 organization that submitted the plan without approval from the commissioner if the  
9 proposed amendments are nonsubstantive and do not significantly alter the likelihood  
10 that the plan will result in the successful collection and recycling of discarded  
11 covered batteries. The producer or organization shall at the beginning of each  
12 calendar quarter notify the department of any amendments made to the approved plan  
13 in the previous calendar quarter that are nonsubstantive and do not significantly alter  
14 the likelihood that the plan will result in the successful collection and recycling of  
15 discarded covered batteries.

16 B. If proposed amendments to an approved plan are substantive and would  
17 significantly alter the likelihood that the plan will result in the successful collection  
18 and recycling of discarded covered batteries, including, but not limited to,  
19 amendments eliminating a substantial number of retail collection locations, adding or  
20 deleting batteries to be collected based on the chemistry employed in storing energy  
21 in those batteries, addressing threats to the financial viability of the organization or  
22 addressing disruption in transportation or service affecting the ability of the producer  
23 or organization or any service providers to collect or process discarded covered  
24 batteries, the producer or organization shall submit to the commissioner a revised  
25 plan describing the proposed amendments. The commissioner shall review the  
26 revised plan and make a determination of whether to approve the proposed  
27 amendments, in whole or in part, within 90 days of receipt of the revised plan. If the  
28 commissioner determines that the revised plan fails to meet all applicable  
29 requirements of subsection 3, the commissioner shall provide to the producer or  
30 organization a written notice of determination describing the reasons for rejecting the  
31 revised plan. No later than 45 days after receiving a written notice of determination  
32 from the commissioner rejecting a revised plan, the producer or organization may  
33 amend and resubmit the revised plan to the commissioner for reconsideration. The  
34 commissioner shall review an amended revised plan, make a determination of  
35 whether to approve the amended revised plan and provide a written notice of  
36 determination notifying the producer or organization of the commissioner's decision  
37 within 45 days of receipt of the amended revised plan. A producer or organization  
38 whose amended revised plan is rejected by the commissioner may appeal the  
39 commissioner's decision in accordance with sections 341-D and 346.

40 C. A producer or organization that submitted a plan approved under subsection 4  
41 may terminate the program implementing that plan no earlier than 90 days after  
42 providing notice to the commissioner and to program participants of the program's  
43 termination. Prior to the termination of a program, each producer included in the  
44 program shall, individually or through a covered battery stewardship organization  
45 that has agreed to act on the producer's behalf, submit a plan for the establishment of

1 a covered battery stewardship program that is approved by the commissioner or join  
2 an existing organization.

3 D. A plan approved under subsection 4 remains in effect until a revised plan is  
4 adopted in accordance with paragraph B or the program implementing that plan is  
5 terminated in accordance with paragraph C by the producer or organization that  
6 submitted the plan.

7 **7. Collection locations.** This subsection applies to collection locations.

8 A. A retailer, a wholesaler, a municipality, a solid waste management facility and  
9 any other private or public entity may voluntarily serve as a collection location for  
10 discarded covered batteries under an approved and implemented program, so long as  
11 the operator of the program determines that the collection location meets the criteria  
12 for collection locations established under the program's approved plan.

13 B. The participants in a program must fully underwrite the costs of battery collection  
14 containers provided to each collection location established under the program,  
15 including the costs of all materials necessary to comply with the safe collection  
16 requirements of subsection 12, as well as the costs of pickup and transportation of  
17 discarded covered batteries from each collection location, and may not charge a  
18 collection location for such items or services.

19 C. An entity serving as a collection location may not be required to make available  
20 more than one battery collection container at a single location.

21 D. An entity serving as a collection location may not refuse collection of batteries  
22 based on the brand or brands of the batteries. The operator of a program may not  
23 refuse the pickup or transfer of collected batteries from a collection location based on  
24 the brand or brands of the batteries collected.

25 E. An entity serving as a collection location may not charge consumers any fee  
26 relating to the collection of discarded covered batteries. An entity serving as a  
27 collection location may not impose any fee on the operator of a program as a  
28 condition of voluntarily agreeing to serve as a collection location under the program.

29 **8. Sales prohibition.** This subsection governs the sale of covered batteries and  
30 covered battery-containing products in the State.

31 A. Beginning July 1, 2018, a manufacturer, distributor, wholesaler or retailer may  
32 not sell, offer for sale, distribute for sale or offer for promotional purposes in the  
33 State a covered battery or covered battery-containing product unless the producer of  
34 the battery or product has joined an existing covered battery stewardship organization  
35 or submitted a plan for the establishment of a covered battery stewardship program  
36 that has been approved by the commissioner.

37 B. Notwithstanding paragraph A, a manufacturer, distributor, wholesaler or retailer  
38 may continue to sell, distribute for sale, offer for sale or offer for promotional  
39 purposes in the State a covered battery or covered battery-containing product  
40 manufactured prior to July 1, 2018, but shall:

41 (1) By October 1, 2018, sell or otherwise divest or dispose of its remaining stock  
42 of covered batteries manufactured prior to July 1, 2018 by a producer that has not



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1 joined an existing covered battery stewardship organization or submitted a plan  
2 for the establishment of a covered battery stewardship program that has been  
3 approved by the commissioner; and

4 (2) By October 1, 2019, sell or otherwise divest or dispose of its remaining stock  
5 of covered battery-containing products manufactured prior to July 1, 2018 by a  
6 producer that has not joined an existing covered battery stewardship organization  
7 or submitted a plan for the establishment of a covered battery stewardship  
8 program that has been approved by the commissioner.

9 C. Notwithstanding paragraphs A and B, beginning July 1, 2019, a manufacturer,  
10 distributor, wholesaler or retailer of medical devices, as described in the Federal  
11 Food, Drug and Cosmetic Act, 21 United States Code, Section 321(h) (2009), may  
12 not sell, offer for sale, distribute for sale or offer for promotional purposes in the  
13 State a medical device containing covered batteries not included in a plan approved  
14 under subsection 4, except that a manufacturer, distributor, wholesaler or retailer of  
15 medical devices may continue to sell, distribute for sale, offer for sale or offer for  
16 promotional purposes in the State a medical device manufactured prior to July 1,  
17 2019, but shall, by October 1, 2020, sell or otherwise divest or dispose of its  
18 remaining stock of medical devices containing covered batteries manufactured prior  
19 to July 1, 2019 by a producer that has not joined an existing covered battery  
20 stewardship organization or submitted a plan for the establishment of a covered  
21 battery stewardship program that has been approved by the commissioner.  
22 Notwithstanding subsection 1, paragraph L, prior to July 1, 2019, a manufacturer,  
23 distributor, wholesaler or retailer of medical devices may not be considered a  
24 producer under this section.

25 D. Notwithstanding paragraphs A, B and C, a hospital or other health care provider  
26 may, until July 1, 2027, continue to sell or otherwise exhaust its inventory of medical  
27 devices containing covered batteries manufactured prior to July 1, 2019 and not  
28 included in a plan approved under subsection 4.

29 **9. Producer exclusions.** Notwithstanding subsection 1, paragraph L, a person that  
30 manufactures, sells, offers for sale or distributes for sale in the State a covered battery-  
31 containing product is not considered a producer under this section if, no later than 45 days  
32 after receiving a request from the commissioner or an operator, the person:

33 A. Verifies to the commissioner and the operator that the product only contains  
34 batteries with visible, permanent labels clearly identifying the producer or brand of  
35 the batteries and that the producer or brand is a participant in or included under the  
36 operator's program; and

37 B. Identifies the chemistry type of the batteries contained in the product and  
38 provides, based on regional or national sales data or using some other reasonable  
39 basis, a good faith estimate of the weight of batteries contained in the person's  
40 products sold in the State. In January of each year following the person's initial  
41 verification to the commissioner and the operator under this subsection, the person  
42 shall notify the commissioner and the operator as to any changes to the chemistry  
43 type of the batteries contained in the person's product or the estimated weight of  
44 batteries contained in the person's products sold in the State.

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1 An operator of a program that includes the covered battery contained in the person's  
 2 covered battery-containing product shall list the person as a participant in and the product  
 3 as included under the operator's program. If the producer of the covered battery  
 4 contained in the person's covered battery-containing product subsequently terminates its  
 5 participation in a covered battery stewardship program in the State, or if the person ceases  
 6 to use covered batteries in its covered battery-containing product that are produced by a  
 7 participant in or are included under an existing covered battery stewardship program in  
 8 the State, the person must be considered a producer under subsection 1, paragraph L and  
 9 must join an existing covered battery stewardship organization or submit a plan for the  
 10 establishment of a covered battery stewardship program and have that plan approved by  
 11 the commissioner.

12 **10. New producers.** Except as provided in subsection 9, a producer that seeks to  
 13 sell, offer for sale, distribute for sale or offer for promotional purposes in the State a  
 14 covered battery or covered battery-containing product bearing a brand under which the  
 15 battery or product was not sold or offered for sale in the State prior to July 1, 2018 must  
 16 notify the commissioner prior to the sale, offer for sale, distribution for sale or offer for  
 17 promotional purposes of the covered battery or covered battery-containing product in the  
 18 State.

19 **A.** Upon receiving notification under this subsection from a new producer, the  
 20 commissioner shall list the producer as a new producer on the department's publicly  
 21 accessible website.

22 **B.** No later than 90 days following a new producer's notification to the  
 23 commissioner, the producer shall submit a plan to the commissioner in accordance  
 24 with subsection 3 or join an existing organization operating under a plan approved  
 25 under subsection 4.

26 **C.** If a new producer fails to submit a plan or join an existing organization within the  
 27 90-day period under paragraph B, the producer may not sell or distribute a covered  
 28 battery or covered battery-containing product in the State after the expiration of the  
 29 90-day period and a retailer may not sell that producer's battery or product in the  
 30 State after 120 days following the expiration of the 90-day period.

31 **D.** Notwithstanding paragraph C, if a new producer submits a plan within the 90-day  
 32 period under paragraph B and that plan is ultimately rejected by the commissioner  
 33 under subsection 4 after the expiration of the 90-day period, the producer may not sell  
 34 or distribute the covered battery or covered battery-containing product in the State  
 35 after 45 days following the commissioner's final determination rejecting the  
 36 submitted plan and a retailer may not sell the producer's battery or product in the  
 37 State after 120 days following the commissioner's final determination rejecting the  
 38 submitted plan.

39 A new producer that fails to submit a plan that is approved by the commissioner under  
 40 subsection 4 or to join an existing organization within the time limits described in this  
 41 subsection may not sell, offer for sale, distribute for sale or offer for promotional  
 42 purposes a covered battery or covered battery-containing product not sold or offered for  
 43 sale in the State prior to July 1, 2018 until the producer submits a plan for the  
 44 establishment of a covered battery stewardship program that is subsequently approved by  
 45 the commissioner or joins an existing organization.

1 **11. Return of noncompliant products.** If a plan approved under subsection 4 is  
2 subsequently determined by the commissioner not to be in compliance with this section, a  
3 producer who sells, offers for sale, distributes for sale or offers for promotional purposes  
4 in the State a covered battery or covered battery-containing product included under that  
5 plan shall, upon request by a retailer, designate a location to which the retailer may ship  
6 the battery or product for further handling and shall reimburse the retailer for costs  
7 incurred in shipping the battery or product to the designated location.

8 **12. Safe collection.** Any entity that collects discarded covered batteries in the State,  
9 has a physical presence in the State and is operating under or in cooperation with a  
10 covered battery stewardship program shall ensure that all discarded covered batteries  
11 placed in its collection containers are protected from short-circuiting in accordance with  
12 applicable regulations of the federal Department of Transportation, 49 Code of Federal  
13 Regulations, Subtitle B (2015) and other applicable laws or regulations and take  
14 reasonable steps to prevent the placement of materials other than properly protected  
15 discarded covered batteries into its collection containers.

16 **13. Reporting.** By April 1st of the calendar year after the calendar year in which a  
17 covered battery stewardship plan is approved by the commissioner, and annually  
18 thereafter, the producer or organization administering the program implementing the  
19 approved plan shall submit to the commissioner a report describing activities carried out  
20 by the program pursuant to the plan during the previous calendar year. The report must  
21 include, at a minimum, the following information:

22 A. The weight of discarded covered batteries collected by the program in the  
23 previous calendar year, including, if available, a breakdown of the weight of  
24 discarded covered batteries collected per county;

25 B. The location of each collection location established under the program and an  
26 evaluation of the convenience of the collection system implemented by the program;

27 C. A description of the manner in which discarded covered batteries were collected,  
28 transported, sorted, consolidated and processed by the program;

29 D. A description of the methods used by the program for education and outreach,  
30 including examples of any educational materials developed and used by the program,  
31 and an evaluation of the effectiveness of the education and outreach efforts  
32 implemented by the program;

33 E. A summary financial statement documenting the financing of the program  
34 consistent with the requirements of subsection 3, paragraph K. If the statement is  
35 submitted by an organization that operates a similar program in another state, the  
36 organization may meet the requirements of this paragraph by submitting a summary  
37 financial statement that consolidates information for all states in which the  
38 organization operates covered battery stewardship programs without providing  
39 financial information specific to the organization's program in this State; and

40 F. Any recommendations for changes to the program to improve the convenience of  
41 the collection system, consumer education or outreach efforts or program evaluation  
42 methods.

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1        **14. Proprietary information.** Proprietary information submitted to the department  
2 in a covered battery stewardship plan, in an amendment to a plan or pursuant to the  
3 reporting requirements of this section that is identified by the submitter as proprietary  
4 information is confidential and must be handled by the department in the same manner as  
5 confidential information is handled under section 1310-B.

6        As used in this subsection, "proprietary information" means information that is a trade  
7 secret or production, commercial or financial information the disclosure of which would  
8 impair the competitive position of the submitter and would make available information  
9 not otherwise publicly available.

10       **15. Administration and enforcement; rules.** The department shall administer and  
11 enforce this section and may adopt rules consistent with this section as necessary for the  
12 purposes of implementing, administering and enforcing this section. Rules adopted  
13 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
14 subchapter 2-A.

15       A. The department shall charge a reasonable fee to be paid by an applicant for  
16 review and approval of a covered battery stewardship plan. A fee assessed under this  
17 paragraph must be based on the actual costs to the department of reviewing and  
18 approving a covered battery stewardship plan and may not exceed \$25,000.

19       B. The department may establish a reasonable annual fee, to be paid by the operator  
20 of each covered battery stewardship program, to cover the department's costs for  
21 annual report review, oversight, administration and enforcement of the program. A  
22 fee assessed under this paragraph must be based on the actual costs to the department  
23 of annual report review, oversight, administration and enforcement of the operator's  
24 program and may not exceed \$25,000 per year.

25       C. The commissioner may not initiate an enforcement action under this section  
26 against a manufacturer, distributor, wholesaler or retailer:

27            (1) Concerning the sale of covered batteries that are not approved products if the  
28 sale occurred prior to October 1, 2018;

29            (2) Concerning the sale of covered battery-containing products that are not  
30 approved products if the sale occurred prior to October 1, 2019;

31            (3) Concerning the sale of covered batteries manufactured prior to July 1, 2018 if  
32 the sale occurred prior to October 1, 2018;

33            (4) Concerning the sale of covered battery-containing products manufactured  
34 prior to July 1, 2018 if the sale occurred prior to October 1, 2019; or

35            (5) Concerning the sale of medical devices manufactured prior to July 1, 2019 if  
36 the sale occurred prior to October 1, 2020.

37       D. The commissioner may not initiate an enforcement action under this section  
38 against a manufacturer, distributor, wholesaler or retailer:

39            (1) For selling or offering for sale a covered battery or covered battery-  
40 containing product if that entity, within 90 days of discovering that the battery or

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1 product is not in compliance with this section, removes the battery or product  
2 from sale; or

3 (2) For purchasing a covered battery or covered battery-containing product after  
4 the effective date of this section that is verified to be an approved product at the  
5 time of purchase but that is no longer an approved product at the time it is sold by  
6 that entity.

7 **16. Limited private right of action.** Except as provided in paragraph F, a producer  
8 or organization that has submitted a plan for the establishment of a covered battery  
9 stewardship program that has been approved by the commissioner and that has been  
10 implemented to collect, transport and recycle discarded covered batteries in the State may  
11 maintain a civil action in Superior Court against a producer or organization not  
12 participating in its program to recover a portion of its costs and additional sums, as set  
13 forth in this subsection.

14 A. Damages recoverable under this subsection include a fair share of the actual costs  
15 incurred by a plaintiff producer or organization in collecting covered batteries of a  
16 defendant producer or organization discarded in the State for which the defendant  
17 was required under this section to submit and implement a covered battery  
18 stewardship plan or join an existing covered battery stewardship program, as well as  
19 the plaintiff's costs incurred in handling, transporting and recycling or properly  
20 disposing of the defendant's batteries. Additional amounts recoverable under this  
21 subsection include an award of reasonable attorney's fees and court costs, including  
22 expert witness fees.

23 B. In an action by a plaintiff producer or organization against a defendant producer  
24 or organization that did not operate or participate in a covered battery stewardship  
25 program established under this section during the time period in which discarded  
26 covered batteries of the defendant were collected, transported and recycled by the  
27 plaintiff, the plaintiff may establish the defendant's fair share of the plaintiff's actual  
28 costs by:

29 (1) Providing the court with market share data that the court finds reasonably  
30 represent the percentage of sales of covered batteries by the defendant in the  
31 State;

32 (2) Providing the court with data generated from discarded covered battery sorts  
33 involving a minimum of 500 pounds of discarded covered batteries collected at  
34 each of 3 or more collection locations in the State that are found by the court to  
35 have been collected in an unbiased manner and to be reasonably representative of  
36 the population of the State; or

37 (3) Through any other method that the court finds reliable in establishing the  
38 defendant's fair share of the plaintiff's actual costs.

39 C. In an action by a plaintiff producer or organization against a defendant producer  
40 or organization that operated or participated in a covered battery stewardship program  
41 established under this section during the time period in which discarded covered  
42 batteries of the defendant were collected, transported and recycled by the plaintiff,  
43 the plaintiff may establish the defendant's fair share of the plaintiff's actual costs by

1 providing the court with data establishing the relative weight of discarded covered  
2 batteries collected by the plaintiff that the defendant was required under this section  
3 to collect, transport and recycle compared to the weight of other discarded covered  
4 batteries collected by the plaintiff. This data may be generated by the plaintiff.

5 (1) Through the collection of data from discarded covered battery sorts involving  
6 a minimum of 500 pounds of discarded covered batteries collected at each of 3 or  
7 more collection locations in the State that are found by the court to have been  
8 collected in an unbiased manner and to be reasonably representative of the  
9 population of the State;

10 (2) Through an analysis of actual collections by the organization that are found  
11 by the court to be reasonably representative of total actual collections in the  
12 State; or

13 (3) Through any other method that the court finds reliable in establishing the  
14 defendant's fair share of the plaintiff's actual costs.

15 D. If the court finds that an action maintained by a plaintiff producer or organization  
16 against a defendant producer or organization initiated pursuant to this subsection is  
17 without merit and dismisses that action, the court shall award to the defendant  
18 producer or organization reasonable attorney's fees and court costs, including expert  
19 witness fees.

20 E. An action may not be commenced under this subsection against any potential  
21 defendant until 60 days after a plaintiff provides to all potential defendants a written  
22 notice of the claim setting forth the amount of the claim and the basis for the  
23 calculation of that amount. A plaintiff producer or organization may initiate a single  
24 civil action in Superior Court against one or more defendant producers or  
25 organizations.

26 F. An action may not be brought under this subsection against a retailer or franchisor  
27 of retail outlets that was operating or participating in a covered battery stewardship  
28 program established under this section, individually or on behalf of its franchisees, to  
29 recover costs or additional sums incurred during a time period in which discarded  
30 covered batteries were collected, transported or recycled by the retailer or franchisor.

31 G. The department may not be a party to or be required to provide assistance or  
32 otherwise participate in a civil action authorized under this subsection unless subject  
33 to a subpoena before a court of jurisdiction.

34 **17. Preemption.** The State intends to occupy and preempt the entire field of  
35 legislation concerning the regulation of the stewardship of covered batteries and covered  
36 battery-containing products. Any existing or future order, ordinance, rule or regulation in  
37 this field of any political subdivision of the State is void.

38 **18. Antitrust exclusions.** A producer, a group of producers and a covered battery  
39 stewardship organization, and an agent, officer, director and employee of such entities,  
40 preparing, submitting a plan for, implementing or administering a covered battery  
41 stewardship program in accordance with this section and a wholesaler and retailer that  
42 engages in conduct authorized by this section are granted immunity, individually and  
43 jointly, from all applicable antitrust laws of the State for the limited purpose of

1 establishing, implementing and administering a covered battery stewardship program and  
2 otherwise complying with the requirements of this section, and any activity undertaken  
3 by these entities in accordance with and authorized under this section is not an unlawful  
4 restraint of trade, a conspiracy or other violation of any provision of any applicable  
5 antitrust law of the State.

6 An action taken by a producer, a group of producers or an organization to increase the  
7 recycling of covered batteries in accordance with this section that affects the types or  
8 quantities of batteries recycled or the cost and structure of any covered battery  
9 stewardship program is not a violation of any provision of Title 10, chapter 201, except  
10 when such action constitutes an agreement establishing or affecting the price of covered  
11 batteries or the output or production of covered batteries or restricting the geographic area  
12 in which covered batteries will be sold or the customers to whom covered batteries will  
13 be sold.

14 **19. Recommendation regarding repeal.** By February 15, 2025, the commissioner  
15 shall submit a report to the joint standing committee of the Legislature having jurisdiction  
16 over environmental and natural resources matters regarding the status of the State's  
17 stewardship program for covered batteries, including a recommendation on whether the  
18 program should be repealed or recommendations for any changes to the program to  
19 ensure its continued viability. The report under this section may be included in the report  
20 required pursuant to section 1772, subsection 1. After reviewing the report, the  
21 committee may report out a bill relating to the stewardship program for covered batteries  
22 established under this section to the First Regular Session of the 132nd Legislature.

23 **Sec. 2. 38 MRSA §2101-B** is enacted to read:

24 **§2101-B. Food recovery hierarchy**

25 **1. Priorities.** It is the policy of the State to support the solid waste management  
26 hierarchy in section 2101 by preventing and diverting surplus food and food scraps from  
27 land disposal or incineration in accordance with the following order of priority:

- 28 A. Reduction of the volume of surplus food generated at the source;
- 29 B. Donation of surplus food to food banks, soup kitchens, shelters and other entities  
30 that will use surplus food to feed hungry people;
- 31 C. Diversion of food scraps for use as animal feed;
- 32 D. Utilization of waste oils for rendering and fuel conversion, utilization of food  
33 scraps for digestion to recover energy, other waste utilization technologies and  
34 creation of nutrient-rich soil amendments through the composting of food scraps; and
- 35 E. Land disposal or incineration of food scraps.

36 **2. Guiding principle.** It is the policy of the State to use the order of priority in this  
37 section, in conjunction with the order of priority in section 2101, as a guiding principle in  
38 making decisions related to solid waste and organic materials management.

39 **Sec. 3. 38 MRSA §2132, sub-§1,** as amended by PL 2011, c. 655, Pt. GG, §32  
40 and affected by §70, is further amended to read:

1           **1. State recycling goal.** It is the goal of the State to recycle or compost, by January  
2 1, ~~2014~~ 2021, 50% of the municipal solid waste tonnage generated each year within the  
3 State.

4           **Sec. 4. 38 MRSA §2132, sub-§1-A**, as amended by PL 2011, c. 655, Pt. GG, §32  
5 and affected by §70, is repealed.

6           **Sec. 5. 38 MRSA §2132, sub-§1-B** is enacted to read:

7           **1-B. State waste disposal reduction goal.** It is the goal of the State to reduce the  
8 statewide per capita disposal rate of municipal solid waste tonnage to 0.55 tons disposed  
9 per capita by January 1, 2019 and to further reduce the statewide per capita disposal rate  
10 by an additional 5% every 5 years thereafter. The baseline for calculating this reduction  
11 is the 2014 solid waste generation and disposal capacity data gathered by the department.

12           **Sec. 6. 38 MRSA §2132, sub-§2**, as amended by PL 2011, c. 655, Pt. GG, §32  
13 and affected by §70, is further amended to read:

14           **2. Goal revision.** The department shall recommend revisions, if appropriate, to the  
15 state recycling goal and waste disposal reduction goal established in this section. The  
16 department shall submit its recommendations and any implementing legislation to the  
17 joint standing committee of the Legislature having jurisdiction over natural resource  
18 matters.

19           **Sec. 7. 38 MRSA §2201, 3rd ¶**, as amended by PL 2011, c. 655, Pt. GG, §64 and  
20 affected by §70, is further amended to read:

21           Funds related to administration may be expended only in accordance with allocations  
22 approved by the Legislature for administrative expenses directly related to the bureau's  
23 and the department's programs, including actions by the department necessary to abate  
24 threats to public health, safety and welfare posed by the disposal of solid waste. Funds  
25 related to fees imposed on the disposal of construction and demolition debris and residue  
26 from the processing of construction and demolition debris may be expended only for the  
27 state cost share to municipalities under the closure and remediation cost-sharing program  
28 for solid waste landfills established in section 1310-F. Funds related to fees imposed  
29 under this article may be expended to provide grant funding in accordance with the Maine  
30 Solid Waste Diversion Grant Program established in section 2201-B. The department  
31 shall, on an annual basis, conduct a review of the revenues presently in the fund and the  
32 revenues projected to be added to or disbursed from the fund in upcoming calendar years  
33 and determine what amount of revenues, if any, are available to provide grant funding  
34 under section 2201-B. If the department determines that there are revenues in the fund  
35 available in the upcoming calendar year to provide grant funding under section 2201-B,  
36 the department must ensure that such revenues are designated for use in accordance with  
37 section 2201-B by the end of that calendar year. Funds related to operations may be  
38 expended only in accordance with allocations approved by the Legislature and solely for  
39 the development and operation of publicly owned facilities owned or approved by the  
40 bureau and for the repayment of any obligations of the bureau incurred under article 3.  
41 These allocations must be based on estimates of the actual costs necessary for the bureau  
42 and the department to administer their programs, to provide financial assistance to  
43 regional associations and to provide other financial assistance necessary to accomplish  
44 the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and



1 thereafter, the fund must annually transfer to the General Fund an amount necessary to  
2 reimburse the costs of the Bureau of Revenue Services incurred in the administration of  
3 Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other"  
4 and "Capital Expenditures" associated with all bureau activities other than those included  
5 in the operations account.

6 **Sec. 8. 38 MRS §2201-B** is enacted to read:

7 **§2201-B. Maine Solid Waste Diversion Grant Program**

8 **1. Establishment.** The Maine Solid Waste Diversion Grant Program, referred to in  
9 this section as "the program," is established to provide grants to public and private entities  
10 to assist in the development, implementation or improvement of programs, projects,  
11 initiatives or activities designed to increase the diversion of solid waste from disposal in  
12 the State.

13 **2. Administration.** The department shall administer the program and may dispense  
14 revenue from the Maine Solid Waste Management Fund established under section 2201  
15 for the purposes of the program based on approved grant requests from public and private  
16 applicants. The department may provide grants for the documented costs of application  
17 proposals in accordance with the priorities in subsection 5. Costs incurred by the  
18 department in the development and administration of the program may be paid with  
19 revenue in the Maine Solid Waste Management Fund in a manner consistent with section  
20 2201.

21 **3. Audit.** Revenue from the Maine Solid Waste Management Fund established  
22 under section 2201 disbursed by the program is subject to audit as determined by the  
23 department, and the recipient of any such funding must agree to be subject to audit and to  
24 cooperate with the auditor as a condition of receiving funding.

25 **4. Eligibility criteria.** The department may disburse grants under the program to  
26 any public or private entity demonstrating that a proposed program, project, initiative or  
27 activity is, in the department's determination, likely to increase the diversion of solid  
28 waste from disposal within a particular community, municipality or region or the State,  
29 including, but not limited to, municipal or regional composting, organics recovery or  
30 recycling programs, including the establishment of such programs or the purchase of  
31 infrastructure, equipment or other items necessary to implement such programs or  
32 improve existing programs; programs designed to provide equipment for or otherwise  
33 support residential composting and recycling; programs or business models designed to  
34 collect, transport for processing or process organic or recyclable materials; pilot programs  
35 designed to evaluate the feasibility of targeted composting, organics recovery, recycling  
36 or other waste management programs or initiatives; and initiatives or programs designed  
37 to educate certain categories of individuals or the general public about composting,  
38 organics recovery or recycling or to otherwise improve individual or community waste  
39 management practices.

40 **5. Priorities.** The department shall give highest priority in the awarding of funds  
41 under this section to programs, projects, initiatives or activities proposed by municipal or  
42 regional association applicants that otherwise meet the department's eligibility criteria.  
43 The department shall also give priority to applicants proposing programs, projects,  
44 initiatives or activities that are likely to increase the removal and recycling of organic

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1 materials from municipal waste streams. The awarding of funds under this section must  
2 be consistent with the solid waste management hierarchy established under section 2101  
3 and the food recovery hierarchy established under section 2101-B and must be prioritized  
4 to provide the most benefit to the State in terms of increasing the diversion of solid waste  
5 from disposal.

6 **6. Conditions of approval.** The department may require, as a condition of grant  
7 approval, that an applicant demonstrate its ability to provide in-kind contributions relating  
8 to the grant applied for or to provide a certain level of matching funding to supplement  
9 the grant applied for.

10 **7. Rules.** The department may adopt rules to implement this section. Rules adopted  
11 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
12 subchapter 2-A.

13 **Sec. 9. 38 MRSA §2203-A, sub-§1,** as amended by PL 2011, c. 544, §3, is  
14 further amended to read:

15 **1. Fees.** Fees Unless otherwise provided by rule adopted in accordance with  
16 subsection 3, fees are imposed in the following amounts to be levied for solid waste that  
17 is disposed of at commercial, municipal, state-owned and regional association landfills.

18	Asbestos	\$5 per cubic yard
19		
20	Oil-contaminated soil, gravel, brick,	\$25 per ton
21	concrete and other aggregate	
22		
23	Waste water facility sludge	\$5 per ton
24		
25	Ash, coal and oil	\$5 per ton
26		
27	Paper mill sludge	\$5 per ton
28		
29	Industrial waste	\$5 per ton
30		
31	Sandblast grit	\$5 per ton
32		
33	All other special waste	\$5 per ton
34		
35	Municipal solid waste ash	\$1 per ton
36		
37	Front end process residue (FEPR)	\$1 per ton
38		
39	<del>Beginning January 1, 2013 and ending</del>	<del>\$1 per ton</del>
40	<del>December 31, 2013, construction and</del>	
41	<del>demolition debris and residue from the</del>	
42	<del>processing of construction and demolition</del>	
43	<del>debris</del>	

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~~Beginning January 1, 2014, construction~~ \$2 per ton  
Construction and demolition debris and  
residue from the processing of construction  
and demolition debris

**Sec. 10. 38 MRSA §2203-A, sub-§3** is enacted to read:

3. Rules. The department may adopt rules imposing per ton or per cubic yard fees on any of the types of waste listed in subsection 1 disposed of at a commercial, municipal, regional association or state-owned solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 11. 38 MRSA §2204, first ¶**, as amended by PL 1999, c. 385, §8, is further amended to read:

~~The~~ Unless otherwise provided by rule adopted in accordance with subsection 4, the department shall impose a fee of \$2 per ton on any municipal solid waste disposed of at a commercial, municipal ~~or~~, regional association or state-owned landfill, except that there is no fee on municipal solid waste generated by a municipality that owns the landfill accepting it or that has entered into a contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility.

**Sec. 12. 38 MRSA §2204, sub-§4** is enacted to read:

4. Rules. The department may adopt rules imposing per ton fees on any municipal solid waste disposed of or received for processing at a commercial, municipal, regional association or state-owned solid waste disposal facility, solid waste processing facility, incineration facility or solid waste landfill. Fees imposed pursuant to this subsection must be consistent with the solid waste management hierarchy established under section 2101 and the food recovery hierarchy established under section 2101-B. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 13. Department of Environmental Protection; food scraps composting pilot program.** The Department of Environmental Protection, referred to in this section as "the department," shall develop, implement and administer a food scraps composting pilot program as described in this section.

1. The department shall invite municipalities to voluntarily participate in the pilot program and shall select as participants at least one municipality from each of the 3 following groups of counties:

- A. Androscoggin, Cumberland, Lincoln, Sagadahoc and York;
- B. Franklin, Kennebec, Knox, Oxford and Waldo; and
- C. Aroostook, Hancock, Penobscot, Piscataquis, Somerset and Washington.

- 1           2. The department shall invite educational programs to voluntarily participate in the
- 2 pilot program and shall select as participants at least one educational program from each
- 3 of the 3 following categories:
- 4           A. A public or private educational program providing kindergarten to grade 12
- 5 education with an enrollment of 500 students or less, as measured during the 2014-
- 6 2015 school year;
- 7           B. A public or private educational program providing kindergarten to grade 12
- 8 education with an enrollment of more than 500 students, as measured during the
- 9 2014-2015 school year; and
- 10          C. A public or private postsecondary educational program providing undergraduate
- 11 and graduate education.
- 12          3. The department shall invite and shall select as additional voluntary participants in
- 13 the pilot program at least one entity from each of the 3 following categories:
- 14          A. A correctional facility;
- 15          B. A hospital; and
- 16          C. A commercial restaurant that generates, on average, 1/2 ton or more of food
- 17 scraps per week.
- 18          4. The Department of Administrative and Financial Services, Bureau of General
- 19 Services shall, in consultation with the Legislative Council, participate in the pilot
- 20 program with respect to the State House and Burton M. Cross State Office Building
- 21 facilities.
- 22          5. The department shall provide technical assistance, and may provide financial
- 23 assistance consistent with the Maine Solid Waste Diversion Grant Program established
- 24 under the Maine Revised Statutes, Title 38, section 2201-B to each participating entity to
- 25 develop and implement a food scraps composting program or to improve or expand a
- 26 participating entity's existing food scraps composting program. A food scraps composting
- 27 program implemented under this section may involve the establishment of a traditional
- 28 aerobic composting system or an anaerobic digestion system or implementation of other
- 29 food scraps processing or organics recovery technology approved by the department, or
- 30 may, subject to the approval of the department, involve coordination by a participating
- 31 entity with a food scraps composting program or business for the collection and delivery
- 32 of the participating entity's food scraps to the program or business for processing or
- 33 recovery. Each participating entity shall collect data on the amount of food scraps
- 34 diverted from the waste stream by the program, the related cost savings realized by the
- 35 participating entity and any problems encountered in implementing the program. Each
- 36 participating entity shall compile this information into a report and transmit the report to
- 37 the department on or before a date determined by the department.
- 38          6. The department shall analyze the reports submitted by the participating entities
- 39 pursuant to subsection 5 and, by January 15, 2019, shall submit a report to the joint
- 40 standing committee of the Legislature having jurisdiction over environmental and natural
- 41 resources matters detailing the data collected by each participating entity and any
- 42 additional findings and including any recommendations for legislation to implement
- 43 permanent food scraps composting programs or requirements at the state, regional,

# COMMITTEE AMENDMENT

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1 municipal or local level or to otherwise increase the diversion rate for organic materials in  
2 the State. After receiving the report, the joint standing committee may report out a bill  
3 relating to the report to the First Regular Session of the 129th Legislature.

4 **Sec. 14. Appropriations and allocations.** The following appropriations and  
5 allocations are made.

6 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

7 **Public Improvements - Planning/Construction - Administration 0057**

8 Initiative: Provides funds to establish a food waste composting pilot program.

9	<b>GENERAL FUND</b>	<b>2015-16</b>	<b>2016-17</b>
10	All Other	\$0	\$40,000
11			
12	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$40,000</b>
13			

14 **SUMMARY**

15 This amendment strikes and replaces the bill and amends the State's solid waste  
16 management laws as follows.

17 1. It establishes a product stewardship program for batteries.

18 2. It establishes a food recovery hierarchy to be used in conjunction with the State's  
19 solid waste management hierarchy as a guiding principle in making decisions related to  
20 solid waste and organic materials management.

21 3. It updates the State's recycling goal. Current statute sets a goal of recycling or  
22 composting 50% of the municipal solid waste tonnage generated each year within the  
23 State by January 1, 2014. This amendment extends that goal deadline to January 1, 2021.

24 4. It repeals the state waste reduction goal, which focused on the reduction of  
25 municipal solid waste generated in the State, and establishes a state waste disposal  
26 reduction goal focused instead on the statewide per capita reduction of waste disposed of  
27 in the State.

28 5. It provides that revenues collected through the assessment of statutory solid waste  
29 fees may be expended by the Department of Environmental Protection to provide grant  
30 funding in accordance with the Maine Solid Waste Diversion Grant Program, which is  
31 established by this amendment. The department is directed to annually review current  
32 revenues in the Maine Solid Waste Management Fund established in the Maine Revised  
33 Statutes, Title 38, section 2201, as well as revenue projections for upcoming years, to  
34 determine whether additional revenues are available in the upcoming year to provide  
35 grant funding under the grant program and, if funds are available, to designate them for  
36 use in accordance with the program.

37 6. It establishes the Maine Solid Waste Diversion Grant Program to provide grants to  
38 public and private entities to assist in the development, implementation or improvement  
39 of programs, projects, initiatives and activities designed to increase the diversion of solid

1 waste from disposal in the State. Under the program, priority in the awarding of grants is  
2 given to municipal and regional association applicants and to applicants seeking to  
3 establish programs, projects, initiatives or activities likely to increase the removal and  
4 recycling of organic materials from municipal waste streams.

5 7. It provides authority for, but does not require, the Department of Environmental  
6 Protection to adopt rules imposing fees on the disposal or processing of municipal solid  
7 waste and on the disposal of certain types of wastes. Rules adopted pursuant to this  
8 authority are major substantive rules and must be consistent with the State's solid waste  
9 management hierarchy and food recovery hierarchy. Current waste disposal fees under  
10 the Maine Revised Statutes, Title 38, sections 2203-A and 2204 remain unchanged and  
11 will continue to be assessed until the department finally adopts rules imposing different  
12 waste disposal fees. The amendment also makes some technical edits to section 2203-A  
13 to remove outdated statutory language.

14 8. It directs the Department of Environmental Protection to develop, implement and  
15 administer a food scraps composting pilot program and provides funds to the Department  
16 of Administrative and Financial Services to establish such a pilot program. The  
17 Department of Environmental Protection is required to collect data from participating  
18 entities and by January 15, 2019 submit a report to the joint standing committee of the  
19 Legislature having jurisdiction over environmental and natural resources matters detailing  
20 the data collected by each participating entity and any additional findings and including  
21 any recommendations for legislation to implement permanent food scraps composting  
22 programs or requirements at the state, regional, municipal or local level or to otherwise  
23 increase the diversion rate for organic materials in the State. After receiving the report,  
24 the committee may report out a bill relating to the report to the First Regular Session of  
25 the 129th Legislature.

26 9. It adds an appropriations and allocations section.

27 **FISCAL NOTE REQUIRED**

28 **(See attached)**



# 127th MAINE LEGISLATURE

LD 1578

LR 2574(02)

## An Act To Update Maine's Solid Waste Management Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-448)  
Committee: Environment and Natural Resources

Fiscal Note Required: Yes

### Fiscal Note

Current biennium cost increase - Other Special Revenue Funds  
Current biennium revenue increase - Other Special Revenue Funds  
Minor revenue increase - General Fund

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$40,000	\$40,000	\$40,000
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$40,000	\$40,000	\$40,000

### Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.

### Fiscal Detail and Notes

The bill establishes a product stewardship program for batteries and requires the Department of Environmental Protection (DEP) to charge a fee of up to \$25,000 on applicants to review submissions of covered battery stewardship plans. The DEP is also allowed to establish an annual fee of up to \$25,000 on operators of each covered battery stewardship program for costs related to oversight, administration and enforcement. Both of these fees must be based on actual costs to the DEP. Although there is no estimate of the amount of Other Special Revenue Funds expenditures and revenue these activities will generate, this fiscal note assumes there will be adequate resources to cover DEP costs. This bill also establishes the Maine Solid Waste Diversion Grant Program for the purpose of providing grants to entities increasing the diversion of solid waste from disposal in the State. DEP is required to provide funding from the Maine Solid Waste Management Fund for these grants if DEP determines there are sufficient balances within the fund to make disbursements. There is no estimate on the amount of grants that will be disbursed to eligible entities. The bill also allows DEP to conduct rulemaking to change fees related to certain solid waste disposal, resulting in an estimated potential increase in Other Special Revenue Funds revenue to the Maine Solid Waste Management Fund. This bill also requires DEP to establish a food scraps composting pilot program with costs expected to be absorbed within existing budgeted resources.

This bill includes a General Fund appropriation of \$40,000 in fiscal year 2016-17 for the Department of Administrative and Financial Services to establish a food waste composting pilot program. Any additional costs to the Legislature to participate in the pilot program are expected to be minor and can be absorbed within existing budgeted resources.