

MAINE STATE LEGISLATURE

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L.D. 1911

Date: 4-7-22

(Filing No. H-958)

REPORT A

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1417, L.D. 1911, "An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals"

Amend the bill by striking out the title and substituting the following:

'An Act To Prevent the Further Contamination of the Soils and Waters of the State with So-called Forever Chemicals'

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

Sec. 1. 38 MRSA §413, sub-§12 is enacted to read:

12. Sampling for perfluoroalkyl and polyfluoroalkyl substances. Notwithstanding section 414-A or any other provision of law to the contrary, the department by written notification may require a person licensed by the department to discharge wastewater to groundwater or any waters of the State to sample the effluent discharged for perfluoroalkyl and polyfluoroalkyl substances and to report the sample data to the department. Upon receipt of the written notification and as directed by the department, the person shall conduct the required sampling of the effluent for perfluoroalkyl and polyfluoroalkyl substances and report the sample data to the department.

As used in this subsection, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in Title 32, section 1732, subsection 5-A.

Sec. 2. 38 MRSA §1304, sub-§20 is enacted to read:

20. Land application of septage; prohibitions. Notwithstanding any provision of law to the contrary:

A. The department may not issue a new license or permit authorizing a person to apply or spread septage at any location in the State; and

B. A person licensed or permitted by the department to apply or spread septage at one or more locations in the State may not apply septage at a location authorized under that license or permit if the department provides to the person a written determination that

1 based on testing conducted at or in close proximity to the location, the department has
 2 determined that the concentration of perfluoroalkyl and polyfluoroalkyl substances in
 3 groundwater at that location or in drinking water sources in close proximity to that
 4 location exceeds the applicable drinking water standard for perfluoroalkyl and
 5 polyfluoroalkyl substances.

6 As used in this subsection, "perfluoroalkyl and polyfluoroalkyl substances" has the same
 7 meaning as in Title 32, section 1732, subsection 5-A.

8 **Sec. 3. 38 MRSA §1305, sub-§7**, as enacted by PL 1983, c. 726, §2, is repealed.

9 **Sec. 4. 38 MRSA §1306, sub-§2**, as amended by PL 1985, c. 612, §19, is repealed.

10 **Sec. 5. 38 MRSA §1306, sub-§7** is enacted to read:

11 **7. Prohibitions on land application of sludge; sale and distribution of compost**
 12 **and other agricultural products and materials containing sludge and septage; sale,**
 13 **distribution and use of crops grown at septage application sites.** This subsection
 14 governs the land application of sludge, the sale and distribution of compost and other
 15 agricultural products and materials containing sludge and septage and the sale, distribution
 16 and use of crops grown at septage application sites.

17 A. Notwithstanding any provision of law to the contrary, except as provided in
 18 paragraph B, a person may not:

19 (1) Apply to or spread on any land in the State:

20 (a) Sludge generated from a municipal, commercial or industrial wastewater
 21 treatment plant;

22 (b) Compost material that included in its production sludge generated from a
 23 municipal, commercial or industrial wastewater treatment plant or septage; or

24 (c) Any other product or material that is intended for use as a fertilizer, soil
 25 amendment, topsoil replacement or mulch or for other similar agricultural
 26 purpose that is derived from or contains sludge generated from a municipal,
 27 commercial or industrial wastewater treatment plant or septage;

28 (2) Sell or distribute in the State:

29 (a) Compost material that included in its production sludge generated from a
 30 municipal, commercial or industrial wastewater treatment plant or septage; or

31 (b) Any other product or material that is intended for use as a fertilizer, soil
 32 amendment, topsoil replacement or mulch or for other similar agricultural
 33 purpose that is derived from or contains sludge generated from a municipal,
 34 commercial or industrial wastewater treatment plant or septage; or

35 (3) Sell, distribute or use in the State an agricultural crop or other vegetative
 36 material for any agricultural purpose, including, but not limited to, for use as
 37 animal feed, if the agricultural crop or vegetative material was grown at a location
 38 in the State where septage is licensed or permitted to be applied or spread.

39 B. The prohibitions in paragraph A do not apply to:

1 (1) The disposal or placement at a solid waste landfill of any of the materials that
2 are prohibited from application, spreading, sale, distribution or use by this
3 subsection;

4 (2) The land application of or the sale or distribution of compost material or other
5 agricultural product or material derived from or containing residuals generated as
6 a result of the processing or cultivation of food, food waste, crops or vegetative
7 material, the brewing of malt liquor, the fermenting of wine or hard cider or the
8 distilling of spirits, including, but not limited to, blueberries, apples, grapes,
9 potatoes, seaweed, fish and seafood and spent grain or malt, provided that such
10 residuals are not mixed with sludge from a municipal, commercial or industrial
11 wastewater treatment plant, septage, sewage or sanitary wastewater prior to or
12 during land application or the production of the compost material or other
13 agricultural product or material; or

14 (3) The land application of or the sale or distribution of compost material or other
15 agricultural product or material derived from or containing sludge resulting from
16 the production of precipitated calcium carbonate.

17 **Sec. 6. 38 MRSA §1310-B-1, sub-§2, ¶A,** as enacted by PL 2021, c. 478, §1, is
18 amended to read:

19 A. The fund is ~~funded by the fee under subsection 3 and any~~ may accept revenue from
20 any source, public or private funds, that may be available for carrying out the purposes
21 of the fund. The department shall deposit with the Treasurer of State to the credit of
22 the fund money in the fund not currently needed by the department to carry out the
23 purposes of the fund, which may be invested as provided by law. Interest earned on
24 investment of money under this paragraph must be credited to the fund.

25 **Sec. 7. 38 MRSA §1310-B-1, sub-§3,** as enacted by PL 2021, c. 478, §1, is
26 repealed.

27 **Sec. 8. 38 MRSA §1310-B-1, sub-§4,** as enacted by PL 2021, c. 478, §1, is
28 amended to read:

29 **4. Rules.** The board ~~shall~~ may adopt rules necessary for the administration of the fund
30 and any underlying program or purpose under or funded by the fund ~~and for the assessment~~
31 ~~and collection of the fee under subsection 3.~~ Rules adopted pursuant to this subsection are
32 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

33 **Sec. 9. PL 2021, c. 478, §2, sub-§4** is repealed.

34 **Sec. 10. Department of Environmental Protection to develop plan to**
35 **prohibit land application of septage; report.** The Department of Environmental
36 Protection shall study methods of and develop a plan for prohibiting the land application
37 of septage in the State. The plan must include, but is not limited to, identification of the
38 available capacity at wastewater treatment plants or other treatment or disposal facilities in
39 the State or regionally to manage the septage that is currently land applied in the State,
40 determination of the capacity anticipated to be necessary to manage that septage if land
41 application is prohibited in the State, development of recommendations for supporting and
42 funding the development of such additional management capacity if necessary and

1 development of recommendations concerning a framework and appropriate time frame for
 2 prohibiting the land application of septage in the State.

3 On or before January 15, 2023, the department shall submit to the joint standing
 4 committee of the Legislature having jurisdiction over environment and natural resources
 5 matters a report containing its findings and recommendations, including any suggested
 6 legislation, resulting from the study under this section. After receiving the report, the joint
 7 standing committee may report out legislation to implement any such recommendations.

8 As used in this section, "septage" has the same meaning as in the Maine Revised
 9 Statutes, Title 38, section 1303-C, subsection 27.

10 **Sec. 11. Appropriations and allocations.** The following appropriations and
 11 allocations are made.

12 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

13 **Land Application Contaminant Monitoring Fund N385**

14 Initiative: Provides deallocation as a result of the repeal of the septage and sludge handling
 15 fee.

16 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
17 All Other	(\$1,799,500)	(\$3,599,500)
18		
19 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$1,799,500)</u>	<u>(\$3,599,500)</u>

20
 21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 22 number to read consecutively.

23 **SUMMARY**

24 This amendment, which is the majority report of the committee, changes the title of
 25 and replaces the bill and does the following.

26 1. It authorizes the Department of Environmental Protection to require a person
 27 licensed to discharge wastewater to sample the effluent discharged for perfluoroalkyl and
 28 polyfluoroalkyl substances and to report the sample data to the department.

29 2. It provides that a person licensed or permitted by the department to apply or spread
 30 septage at one or more locations in the State may not apply septage at any location
 31 authorized under that license or permit if the department provides to the person a written
 32 determination that, based on testing conducted at the location or in close proximity to that
 33 location, the department has determined that the concentration of perfluoroalkyl and
 34 polyfluoroalkyl substances in groundwater at that location or in drinking water sources in
 35 close proximity to that location exceeds the applicable drinking water standard for
 36 perfluoroalkyl and polyfluoroalkyl substances.

37 3. It prohibits the department from issuing any new license or permit authorizing a
 38 person to apply or spread septage at any location in the State.

39 4. It repeals provisions of law that authorize a homeowner to arrange for septage from
 40 a residence on the homeowner's property to be disposed of on that property.

1 5. Subject to certain listed exceptions, it prohibits the application or spreading on any
2 land in the State of sludge, any compost material that included in its production sludge
3 generated from a municipal, commercial or industrial wastewater treatment plant or septage
4 or any other product or material that is intended for use as a fertilizer, soil amendment,
5 topsoil replacement or mulch or for other similar agricultural purpose that is derived from
6 or contains sludge generated from a municipal, commercial or industrial wastewater
7 treatment plant or septage.

8 6. Subject to certain listed exceptions, it prohibits the sale or distribution in the State
9 of any compost material that included in its production sludge generated from a municipal,
10 commercial or industrial wastewater treatment plant or septage or any other product or
11 material that is intended for use as a fertilizer, soil amendment, topsoil replacement or
12 mulch or for other similar agricultural purpose that is derived from or contains sludge
13 generated from a municipal, commercial or industrial wastewater treatment plant or
14 septage.

15 7. Subject to certain listed exceptions, it prohibits the sale, distribution or use in the
16 State of an agricultural crop or other vegetative material for any agricultural purpose,
17 including, but not limited to, for use as animal feed, if the agricultural crop or vegetative
18 material was grown at a location in the State where septage is licensed or permitted to be
19 applied or spread.

20 8. It repeals the provision in law imposing a \$10 per ton fee on the handling of sludge
21 and septage beginning January 1, 2022 and makes related statutory changes.

22 9. It repeals a provision of Public Law 2021, chapter 478 that prohibits a person
23 licensed or permitted by the department to apply sludge or septage at a location subject to
24 department evaluation for perfluoroalkyl and polyfluoroalkyl substances contamination
25 from requesting to surrender the license or permit prior to its expiration unless the person
26 has submitted to the evaluation and provided the results to the department.

27 10. It requires the department to study methods of and develop a plan for prohibiting
28 the land application of septage in the State and, on or before January 15, 2023, to submit
29 to the joint standing committee of the Legislature having jurisdiction over environment and
30 natural resources matters a report containing its findings and recommendations, including
31 any suggested legislation, resulting from that study. After receiving the report, the joint
32 standing committee may report out legislation to implement any such recommendations.

33 The amendment also adds an appropriations and allocations section.

34 **FISCAL NOTE REQUIRED**
35 (See attached)



130th MAINE LEGISLATURE

LD 1911

LR 2227(02)

An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals

Fiscal Note for Bill as Amended by Committee Amendment *A. (H-958)*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Appropriations/Allocations				
Other Special Revenue Funds	(\$1,799,500)	(\$3,599,500)	(\$3,599,500)	(\$3,599,500)
Revenue				
Other Special Revenue Funds	(\$1,800,000)	(\$3,600,000)	(\$3,600,000)	(\$3,600,000)

Fiscal Detail and Notes

This bill directs the Department of Environmental Protection (DEP) to prohibit the land application of sludge and sludge derived compost; prohibit the sale and distribution of sludge derived compost; not allow the issuance of new licenses for septage land application; and prohibit septage land application on fields with groundwater determined to contain PFAS in excess of established drinking water standards. The bill clarifies that upon request the DEP may require licensed dischargers of wastewater to test for PFAS and share the results. The bill repeals the \$10 per ton handling fee on septage and sludge enacted in Public Law 2021, chapter 478.

The repeal of the septage and sludge handling fee will result in Other Special Revenue Funds revenue loss of \$1,800,000 in fiscal year 2021-22 and \$3,600,000 in fiscal year 2022-23. The bill includes deallocations to the Land Application Containment Monitoring Fund of \$1,799,500 in fiscal year 2021-22 and \$3,599,500 in fiscal year 2022-23 to reflect the revenue reduction.