

# MAINE STATE LEGISLATURE

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Date: 4-7-22

L.D. 1911

(Filing No. H-759)

## REPORT B

### ENVIRONMENT AND NATURAL RESOURCES

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

COMMITTEE AMENDMENT "B" 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 §1306, sub-§7 is enacted to read:**

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

A. Notwithstanding any provision of law to the contrary, except as provided in paragraph B, beginning March 1, 2023, a person may not:

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

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

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

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

(2) Sell or distribute in the State:

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

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

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

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

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

(2) The land application of sludge or septage or the sale or distribution of compost material or other product or material derived from or containing sludge or septage that has been tested for perfluorooctanoic acid, or PFOA, and for perfluorooctaine sulfonic acid, or PFOS, consistent with the analytical methods for such testing established by the department, and the results of that testing indicate that the sludge, septage, compost material or other product or material contains less than 25 parts per billion of PFOA and less than 50 parts per billion of PFOS.

**Sec. 3. 38 MRSA §1310-B-1, sub-§2, ¶A,** as enacted by PL 2021, c. 478, §1, is amended to read:

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

**Sec. 4. 38 MRSA §1310-B-1, sub-§3,** as enacted by PL 2021, c. 478, §1, is repealed.

1       **Sec. 5. 38 MRSA §1310-B-1, sub-§4**, as enacted by PL 2021, c. 478, §1, is  
2 amended to read:

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

7       **Sec. 6. PL 2021, c. 478, §2, sub-§4** is repealed.

8       **Sec. 7. Appropriations and allocations.** The following appropriations and  
9 allocations are made.

10       **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

11       **Land Application Contaminant Monitoring Fund N385**

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

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

18  
19       Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
20 number to read consecutively.

21       **SUMMARY**

22       This amendment, which is a minority report of the committee, changes the title of and  
23 replaces the bill and does the following.

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

27       2. Subject to certain listed exceptions, beginning March 1, 2023, it prohibits the  
28 application or spreading on any land in the State of sludge or septage, any compost material  
29 that included in its production sludge generated from a municipal, commercial or industrial  
30 wastewater treatment plant or septage or any other product or material that is intended for  
31 use as a fertilizer, soil amendment, topsoil replacement or mulch or for other similar  
32 agricultural purpose that is derived from or contains sludge generated from a municipal,  
33 commercial or industrial wastewater treatment plant or septage.

34       3. Subject to certain listed exceptions, beginning March 1, 2023, it prohibits the sale  
35 or distribution in the State of any compost material that included in its production sludge  
36 generated from a municipal, commercial or industrial wastewater treatment plant or septage  
37 or any other product or material that is intended for use as a fertilizer, soil amendment,  
38 topsoil replacement or mulch or for other similar agricultural purpose that is derived from  
39 or contains sludge generated from a municipal, commercial or industrial wastewater  
40 treatment plant or septage.

1           4. Subject to certain listed exceptions, beginning March 1, 2023, it prohibits the sale,  
2 distribution or use in the State of an agricultural crop or other vegetative material for any  
3 agricultural purpose, including, but not limited to, for use as animal feed, if the agricultural  
4 crop or vegetative material was grown at a location in the State where septage is licensed  
5 or permitted to be applied or spread.

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

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

13           The amendment also adds an appropriations and allocations section.

14                                   **FISCAL NOTE REQUIRED**

15                                   **(See attached)**

**130th MAINE LEGISLATURE****LD 1911****LR 2227(03)****An Act To Prohibit the Contamination of Clean Soils with So-called Forever Chemicals****Fiscal Note for Bill as Amended by Committee Amendment****Committee: Environment and Natural Resources****Fiscal Note Required: Yes***BCH-959*

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**Fiscal Note**

	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>Projections FY 2023-24</b>	<b>Projections FY 2024-25</b>
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	(\$1,799,500)	(\$3,599,500)	(\$3,599,500)	(\$3,599,500)
<b>Revenue</b>				
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, septage and sludge and septage derived compost and the sale and distribution of sludge and septage derived compost, beginning March 1, 2023. The bill clarifies that upon request, the DEP may require licensed dischargers of wastewater to test for PFAS and share the results. Finally, 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.