

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2021

6. Fees. The department may establish by rule and assess a fee payable by a manufacturer upon submission of the notification required under subsection 2 to cover the department's reasonable costs in developing rules under subsection 5, paragraphs C and D and administering the requirements of subsections 2 and 9.

7. Failure to provide notice. A person may not sell, offer for sale or distribute for sale in the State a product containing intentionally added PFAS if the manufacturer has failed to provide the information required under subsection 2.

A. The department may exempt a product from the prohibition under this subsection if the department determines that the use of PFAS in the product is a currently unavoidable use.

B. The prohibition in this subsection does not apply to a retailer in the State unless the retailer sells, offers for sale or distributes for sale in the State a product for which the retailer has received a notification pursuant to subsection 8, paragraph B that the sale of the product is prohibited.

8. Certificate of compliance. If the department has reason to believe that a product contains intentionally added PFAS and is being offered for sale in violation of subsection 7, the department may direct the manufacturer of the product to, within 30 days:

A. Provide the department with the certificate attesting that the product does not contain intentionally added PFAS; or

B. Notify persons who sell that product in this State that the sale of that product is prohibited in this State and provide the department with a list of the names and addresses of those notified.

9. PFAS source reduction program. To the extent funds are available and in consultation with relevant stakeholders, the department shall develop and implement a program to reduce the presence of PFAS in discharges to air, water and land by encouraging the use of safer alternatives and the proper management of materials containing PFAS. The program may include:

A. Information resources targeted to industrial or commercial users of PFAS;

B. Education of the general public;

C. To the extent funds are available, grants to operators of publicly owned treatment works for the purposes of developing, expanding or implementing pretreatment standards for PFAS and education of users on sources of PFAS and proper management;

D. To the extent funds are available, grants to municipalities for the purposes of educating solid waste disposal users on sources of PFAS and proper management; and

E. Other efforts determined by the department to be prudent to achieve the program's purpose.

10. Rules. The department shall adopt rules to implement this section. Except as provided in subsection 5, paragraph C, rules adopted to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective July 15, 2021.

CHAPTER 478

H.P. 1189 - L.D. 1600

An Act To Investigate Perfluoroalkyl and Polyfluoroalkyl Substance Contamination of Land and Groundwater

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1310-B-1 is enacted to read:

§1310-B-1. Land Application Contaminant Monitoring Fund

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

A. "Fund" means the Land Application Contaminant Monitoring Fund under subsection 2.

B. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

2. Land Application Contaminant Monitoring Fund. The Land Application Contaminant Monitoring Fund is established to be used by the department as a nonlapsing, revolving fund to test and monitor soil and groundwater for PFAS and other contaminants and for other related activities, including, but not limited to, abating or mitigating identified contamination and the effects of such contamination through the provision of access to safe drinking water, the installation of filter treatment systems or other actions.

A. The fund is funded by the fee under subsection 3 and any 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.

B. The department may transfer money in the fund in excess of the amounts the department anticipates to be necessary to carry out the purposes of the fund to the Uncontrolled Sites Fund under section 1364, subsection 6 for the purposes of testing, monitoring or treating land contaminated by PFAS.

C. Beginning January 15, 2023, and every 2 years thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the uses of the fund and a summary of contamination identified. After reviewing the report, the joint standing committee may report out legislation related to the report.

3. Handling fee. In addition to any other fee or charge required by statute or rule, beginning January 1, 2022, the department shall assess an annual fee, as calculated on a calendar year basis, of \$10 per ton, or an equivalent amount as determined by the department on a volume basis, on the handling of sludge or septage. The department shall waive collection of a fee under this subsection for any entity that would otherwise be assessed a fee of less than \$50 total in any calendar year. The department shall deposit a fee collected under this subsection into the fund.

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

Sec. 2. Testing of locations with land applications of sludge or septage for perfluoroalkyl and polyfluoroalkyl substance contamination.

The Department of Environmental Protection shall develop and implement a program to evaluate soil and groundwater for perfluoroalkyl and polyfluoroalkyl substances and other identified contaminants at locations licensed or permitted prior to 2019 to apply sludge or septage.

1. The department may exclude a location from evaluation under the program for good reason, including, but not limited to, upon a determination that no sludge or septage was actually applied at the location or that the location is no longer owned or controlled by the licensee or permittee and the department is unable to obtain authorization to evaluate soil and groundwater at the location. As part of the report required under the Maine Revised Statutes, Title 38, section 1310-B-1, subsection 2, paragraph C, the department shall identify any location thus excluded and describe the reason for the exclusion.

2. The department shall prioritize under the program the evaluation of locations based on criteria to be established by the department, including, but not limited to, the anticipated presence of high levels of perfluoroalkyl and polyfluoroalkyl substances in the sludge or septage applied at a location, the volume of sludge or septage applied at a location or the proximity of known receptors.

3. The evaluation of locations under the program must include the testing of soil and groundwater for all perfluoroalkyl and polyfluoroalkyl substances that may reasonably be quantified by a laboratory certified under the Maine Revised Statutes, Title 22, section 567. Testing under this section must be paid for using funds from the Land Application Contaminant Monitoring Fund under Title 38, section 1310-B-1. If testing of any location under this section indicates an elevated level of contamination on land that is currently being used for the production of an agricultural product, the department shall inform the Department of Agriculture, Conservation and Forestry of the findings of contamination. The Department of Environmental Protection shall complete an evaluation of, or determine to exclude from evaluation pursuant to subsection 1, at least half of the locations licensed or permitted prior to 2019 to apply sludge or septage by December 31, 2024 and all such locations by December 31, 2025.

4. Notwithstanding any provision of law to the contrary, a person licensed or permitted by the department to apply sludge or septage at a location subject to evaluation under this section shall submit to an evaluation of that location under the program upon the request of the department, and, prior to January 1, 2026, the person may not submit a request to the department to surrender that license or permit prior to its expiration unless the person has submitted to such evaluation and has provided the department with the results of any testing conducted.

For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in the Maine Revised Statutes, Title 32, section 1732, subsection 5-A, "sludge" has the same meaning as in Title 38, section 1303-C, subsection 28-A and "septage" has the same meaning as in Title 38, section 1303-C, subsection 27.

Sec. 3. Testing of landfill leachate for perfluoroalkyl and polyfluoroalkyl substance contamination. The Department of Environmental Protection shall develop and implement a program for the testing of leachate collected and managed by solid waste landfills for perfluoroalkyl and polyfluoroalkyl substance contamination.

1. Notwithstanding any provision of law to the contrary, within 90 days of the effective date of this Act, the department shall require each licensed solid waste landfill to conduct periodic testing of leachate collected and managed by the landfill for all perfluoroalkyl and

polyfluoroalkyl substances that may reasonably be quantified by a laboratory certified under the Maine Revised Statutes, Title 22, section 567. A solid waste landfill that conducts testing of leachate pursuant to this section shall provide the department with the results of that testing.

2. On or before January 15, 2024, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the testing program implemented under this section, including a description of the results of such testing and any recommendations, including proposed legislation. After reviewing the report, the joint standing committee may report out legislation related to the report.

For purposes of this section, "perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as in the Maine Revised Statutes, Title 32, section 1732, subsection 5-A.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

**Land Application Contaminant Monitoring Fund
N385**

Initiative: Provides allocations to test and monitor soil and groundwater for perfluoroalkyl and polyfluoroalkyl substances, or PFAS, and other contaminants. Funding may also be used for abating and mitigating identified contamination through the installation of filter treatment systems.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$1,800,000	\$3,600,000
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$1,800,000</u>	<u>\$3,600,000</u>

See title page for effective date.

**CHAPTER 479
S.P. 538 - L.D. 1651**

An Act To Support Working Families through Outreach and Education about Tax Credits for Persons of Low Income

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §5219-S, sub-§7 is enacted to read:

7. Federal individual taxpayer identification numbers. For tax years beginning on or after January 1, 2021, for an individual who files a federal income tax

return, notwithstanding Section 32(m) of the Code, for purposes of calculating the credit allowed pursuant to this section, the taxpayer identification number required by Section 32(c)(1)(E) and 32(c)(3)(D) of the Code means a federal individual taxpayer identification number issued to an individual by the Internal Revenue Service or a social security number issued to an individual by the Social Security Administration on or before the due date for filing the return for the taxable year.

Sec. 2. Report. The New Ventures Maine program within the University of Maine System shall submit by January 31st annually beginning in 2022 to the joint standing committee of the Legislature having jurisdiction over taxation matters a report describing its activities in the previous calendar year in providing tax assistance to low-income individuals and families, including the types of activities engaged in and the number of low-income individuals and families receiving tax assistance.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE

New Ventures Maine Z169

Initiative: Provides ongoing funds for a statewide collaboration of nonprofit and for-profit partners to provide free volunteer tax assistance, including the filing of state tax returns; outreach to low-income individuals and families about federal and state tax credits; financial education, connections to financial services and other resources; education for providers and volunteers; and statewide data collection.

GENERAL FUND	2021-22	2022-23
All Other	\$36,500	\$36,500
GENERAL FUND TOTAL	<u>\$36,500</u>	<u>\$36,500</u>

See title page for effective date.

**CHAPTER 480
H.P. 1254 - L.D. 1685**

An Act To Protect the Constitutional Rights of Indigent Defendants

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §815 is enacted to read:

§815. Communication between prosecutor and unrepresented defendant

1. Requirements for communication. To ensure that all waivers of the right to counsel are made knowingly, voluntarily and intelligently, a prosecutor may