

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
116TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
ENERGY AND NATURAL RESOURCES

JULY 1993

**Staff:**

*Tim Glidden, Principal Analyst  
Patrick Norton, Legislative Analyst  
Deborah Friedman, Legislative Analyst*

*Office of Policy and Legal Analysis  
Room 101, State House Station 13  
Augusta, ME 04333  
(207)287-1670*

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JOHN G. KELLEY, RESEARCHER  
DARLENE A. SHORES LYNCH, RESEARCHER  
CARRIE C. McFADDEN, RESEARCHER

STATE OF MAINE  
OFFICE OF POLICY AND LEGAL ANALYSIS  
ROOM 101/107/135  
STATE HOUSE STATION 13  
AUGUSTA, MAINE 04333  
TEL: (207) 287-1670  
FAX (207) 287-1275

**ONE HUNDRED AND SIXTEENTH LEGISLATURE  
FIRST REGULAR SESSION**

**JOINT STANDING COMMITTEE  
BILL SUMMARIES**

**JULY 1993**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

The committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>P&amp;S XXX</i>	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of enacted Resolve</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>CARRIED OVER</i>	<i>Bill carried over to Second Session</i>
<i>ONTP</i>	<i>Ought Not to Pass report accepted</i>
<i>ENACTMENT FAILED</i>	<i>Bill failed to get majority vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>FAILED EMERGENCY ENACTMENT</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>DIED BETWEEN BODIES</i>	<i>House &amp; Senate disagree; bill died</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference formed but unable to agree</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>
<i>UNSIGNED</i>	<i>Not signed by Governor within 10 days</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin.

If you have any suggestions or comments on these summaries, please let us know.

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The amendment (H-532) makes the following changes in the bill:

1. Amends the mandatory shoreland zoning laws to include regulation of buildings built over the water, such as wharves;
2. Reinstates language requiring a permit under the site law for the following activities: drilling or excavating for natural resources when the affected area exceeds 60,000 square feet and construction of gas pipelines and transmission lines carrying more than 100 kilovolts. Laws requiring notice of these activities are also reinstated;
3. Clarifies that areas stripped or graded and revegetated within a calendar year are not counted in determining whether a development exceeds 3 acres;
4. Moves the language regarding consideration of noise effects from a development into the section of law dealing with standards for development;
5. Expands the exemption for residential subdivisions to include an exemption for residential subdivisions of 15 or fewer lots without municipal sewer, provided certain conditions are met;
6. Amends the notice requirement for expansions at existing manufacturing facilities to require an annual notice of construction undertaken during the year instead of advance notice of construction to be undertaken;
7. Removes reference to reconsideration of a board decision to grant, withhold or suspend municipal registration to make this law consistent with legislation approved earlier this session;
8. Reinstates consideration of flood hazards as a standard for reviewing solid and hazardous waste facilities under the site laws;
9. Clarifies the process the department must follow to review low-level radioactive waste facility sites; and
10. Provides that persons holding permits for conversions are not required to obtain department review of modifications to those projects.

House Amendment "A" (H-632) corrects the fiscal note.

**LD 1509**

**An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection's Bureau of Hazardous Materials and Solid Waste Control**

PUBLIC 355  
EMERGENCY

**SPONSOR(S)**  
ANDERSON

**COMMITTEE REPORT**  
OTP-AM

**AMENDMENTS ADOPTED**  
H-572

**SUMMARY**

Title 38, section 2304 is amended to clarify that the exemption for water supply treatment facilities from the requirement to report progress toward meeting reduction goals applies only to drinking water and provides an exemption for wholesale distributors of chemicals.

The bill amends the definition of an oil terminal facility to exclude certain vessels from licensing requirements and extend the maximum period of a license from 2 to 5 years.

The bill amends the statutes pertaining to 3rd-party damage claims made to the Maine Coastal and Inland Surface Oil Clean-up Fund and the Ground Water Oil Clean-up Fund to clarify that claims that have not been settled or referred to arbitration are to be processed in accordance with existing statute as opposed to the statute in effect at the time the application for a claim was filed. The bill removes the responsible party from the 3rd-party damage claims process unless the responsible party agrees to become an interested party who is bound by the results of that process for purposes of a subsequent reimbursement action. Interested parties are entitled to participate in hearings before independent hearing examiners and to appeal their decisions. The decisions of independent hearing examiners are granted a presumption of regularity in subsequent reimbursement actions that may be rebutted by responsible parties who do not become interested parties.

The bill amends the underground oil storage facilities and ground water protection laws to exempt certain tanks from daily inventory and annual statistical inventory requirements; change the daily product inventory trigger for reporting evidence of a leak; clarify that certain capital expenditures are not included in the spending limitation of \$1,743,000 per fiscal year; and eliminate the commercial risk pool account.

The bill amends the definitions of disposal and treatment to identify incineration of hazardous waste, waste oil and biomedical waste as treatment, not disposal. Title 38, section 1310-X is amended to reflect the change in the definitions of disposal and treatment in order to preserve the intent of section 1310-X. (See LD 1563)

The bill amends the solid waste facility siting provisions by repealing the exemption for solid waste disposal facilities that are owned by municipalities from the escrow closure account requirements of state law. This exemption conflicted with United States Environmental Protection Agency regulations that require all municipal solid waste landfill owners and operators to demonstrate financial assurance sufficient to meet the costs of closure, post-closure care and corrective action for known releases. Recently adopted federal regulations established requirements for state solid waste permit programs. This bill removes a barrier to United States Environmental Protection Agency authorization of the state program.

The bill amends the hazardous matter control laws to require that spill prevention control and clean-up plans report quantities of hazardous matter in pounds if a solid and in pounds and gallons if a liquid.

The bill amends the uncontrolled sites law to include a definition of "site" to require the reporting of the discovery of hazardous substances at a site, to expand rule-making authority and to enact an enforcement and penalty provision.

The bill repeals the 300-foot boundary law.

The changes to Title 38, section 542, subsection 3-A and section 544 clarify the extent of claims allowed against the Maine Coastal and Inland Surface Oil Clean-up Fund for damages to real estate or personal property or loss of income as the result of a discharge of oil. Persons suffering damages within 12 miles of the Maine coastline as the result of an oil spill may file a claim.

The bill amends the Maine Coastal and Inland Surface Oil Clean-up Fund to ensure that buildings constructed with fees from the fund remain under the control of the department.

The bill amends the Ground Water Oil Clean-up Fund coverage requirements to clarify that there must be evidence of a discharge, require the submission of the site assessment and repeal a time requirement related to uncompensated 3rd-party damage claims that are in conflict with other laws.

The bill amends Title 38, section 1271 through section 1280 to define terms and clarify changes made to the asbestos laws by Public Law 1991, chapter 473.

This bill amends Title 38, section 1310-F to prohibit grant payments to municipalities for civil or criminal judgments against them or for rehabilitation of some structures constructed in the municipality after January 1, 1994.

The bill repeals the following reporting requirements: imported waste report, closure and remediation program progress report and the hazardous waste facility needs plan. The hazardous waste management status report to the Legislature is changed from an annual to a biennial report.

The bill amends Title 38, section 1319-E clarify the costs allowable under the Maine Hazardous Waste Fund.

The bill amends Title 38, section 1362 to include a definition of environmental site assessment.

The bill amends Title 38, section 2174 to repeal the requirement that the commissioner establish a host municipality solid waste facility inspector training and certification program. Corresponding order and inspection provisions also are repealed.

The Committee amendment (H-572) deletes provisions in the bill pertaining to the role of the responsible party in 3rd-party damage claims but retains that provision according a rebuttable presumption of regularity and validity to determinations made by a hearing examiner. The amendment also clarifies that the Commissioner of Environmental Protection is not required to seek recovery of damages from responsible parties that are unable to pay those claims.

The amendment also strikes sections in the bill pertaining to exemptions from daily inventory requirements and requirements that a site assessment be submitted at the time an application is filed for coverage under the Ground Water Oil Clean-up Fund.

The amendment also caps the annual fee for underground oil storage facility fee at \$130 per year and clarifies that the cap on expenses from the Ground Water Oil Clean-up Fund does not apply to capital costs associated with abatement or remediation.

The amendment also makes several technical corrections to the bill, clarifies hazardous waste reporting requirements and adds a section clarifying that a warehouse constructed by the Department of Environmental Protection at the Southern Maine Technical College is the property of the department.

The amendment establishes a technical services program in the department under which persons involved in real estate transactions may seek assistance in determining how to assess and clean up hazardous waste problems on real estate involved in the transaction. The person who requests assistance under the program would pay the department's costs in providing assistance. The amendment also establishes a voluntary response program under which a person may participate in the investigation and remediation of a hazardous waste site for which they are not otherwise responsible without incurring liability under state environmental laws. The exemption from liability applies only if the investigation and cleanup is undertaken in compliance with an agreement with the department.

The amendment also requires an environmental professional who discovers hazardous waste contamination on the site to notify the professional's client and requires the client to report the contamination to the department.

The amendment protects fiduciaries and trustees from liability under various strict liability

environmental statutes under certain circumstances, but does not protect the assets of the estate or trust governed by the fiduciary or trustee. These portions of the amendment also update current state laws regarding lender liability for environmental contamination to make them consistent with federal rules recently adopted under the federal Superfund program.

**LD 1515      Resolve, Authorizing the Conveyance of Certain Camp Lease Lots on Public Lands, the Exchange of Certain Rights-of-way for Fee Simple Interest in Land, the Conveyance of Certain Timber and Grass Rights through Release Deeds and the Extension of a Road Construction Use Permit Right-of-way for a Period of 99 Years** **RESOLVE 27**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
HALL	OTP-AM	S-199

**SUMMARY**

This resolve authorizes the Director of the Bureau of Public Lands within the Department of Conservation to convey a total of 5.14 acres to 3 parties who currently lease the parcels in Chesuncook Village from the State, to convey a nonexclusive right-of-way to Patricia Heath, an abutter of the public lands of the Donnell Pond Unit in Hancock County and to convey release deeds to the persons or their successors named in agreements contained in Resolve 1983, chapters 76, 79 and 87 and Resolve 1985, chapters 40 and 77. The Resolve also reissues an existing lease currently in effect between the Forest Products Maintenance Corporation and the Bureau of Public Lands. The new lease will contain the same terms as the current lease, except that it will be for the term of 99 years and will include the Town of Greenville as an additional grantee. The lease provides essential access to the Town of Greenville's industrial park.

Committee amendment "A" (S-199) adds a fiscal note to the Resolve.

**LD 1516      Resolve, Authorizing the Conveyance of Certain Public Lands in Gray** **RESOLVE 32**

<b>SPONSOR(S)</b>	<b>COMMITTEE REPORT</b>	<b>AMENDMENTS ADOPTED</b>
BUTLAND	OTP-AM	S-249

**SUMMARY**

This resolve authorizes the Director of the Bureau of Public Lands to convey 1.84 acres of the Pineland Public Lands in Gray, by quitclaim deed, to the Federal Government's National Weather Service. In addition to the purchase of fee title to the 1.84-acre parcel, the National Weather Service will lease 2 other parcels, one for weather balloon release and another for a radar tower installation. It is the intent of the Bureau of Public Lands to enter into the 2 leases only upon legislative approval of the sale of the fee simple parcel.

Committee amendment "A" (S-249) authorizes the Department of Mental Health and Mental Retardation to provide water from Pineland Center to federal facilities constructed on the lands conveyed under this resolve.