

MAINE STATE LEGISLATURE

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STATE OF MAINE
116TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
ENERGY AND NATURAL RESOURCES

MAY 1994

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

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1994

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, 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:

PUBLIC XXX

P&S XXX

RESOLVE XXX

CON RES XXX

EMERGENCY

ONTP

INDEF PP

FAILED ENACTMENT

FAILED EMERGENCY ENACTMENT

FAILED MANDATE ENACTMENT

DIED BETWEEN BODIES

CONF CMTE UNABLE TO AGREE

VETO SUSTAINED

UNSIGNED

DIED ON ADJOURNMENT

Chapter # of enacted Public Law

Chapter # of enacted Private & Special Law

Chapter # of enacted Resolve

Chapter # of Constitutional Resolution passed by both Houses

Enacted law takes effect sooner than 90 days

Ought Not to Pass report accepted

Bill Indefinitely Postponed

Bill failed to get majority vote

Emergency bill failed to get 2/3 vote

Bill imposing local mandate failed to get 2/3 vote

House & Senate disagree; bill died

Committee of Conference unable to agree; bill died

Legislature failed to override Governor's Veto

Not signed by Governor within 10 days

Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. If you have any suggestions or comments on the summaries, please let us know.

5581LHS

**LD 1755 An Act to Modify the End Disposal of Sharp Waste Products
in the Biohazard Disposal Law**

PUBLIC 529

SPONSOR(S)
RUHLIN

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-763

SUMMARY

This bill requires the Department of Environmental Protection to include in its biomedical waste rules additional options for transportation and disposal of hypodermic needles and other "sharps" for small-quantity generators of those items. The rules would allow small-quantity generators to mail the sharps to licensed biomedical waste disposal facilities in Maine or elsewhere, and allow them to designate agents to transport the sharps to disposal facilities or collection points. The bill also requires the department to work with small-quantity generators to clarify and expand disposal options.

COMMITTEE AMENDMENT "A" (H-763) deletes the provision permitting a person to designate any person as an agent of the generator to transport sharps to a disposal facility or to a collection point. The amendment also deletes provisions regulating which disposal facilities a person may send sharps to when mailing them out of State.

**LD 1757 An Act to Amend Certain Laws Pertaining to the Department of
Environmental Protection, Bureau of Hazardous Materials
and Solid Waste Control**

PUBLIC 732
EMERGENCY

SPONSOR(S)
ANDERSON

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-995
S-588 LAWRENCE

SUMMARY

This bill amends a provision of the underground oil storage facility laws pertaining to requirements for reporting a possible leak to clarify that unexplained differences in daily inventory are calculated on the basis of product throughout, not product delivered; amends the monitoring requirements for underground oil storage facilities to exempt certain tanks from the daily inventory and annual statistical inventory analysis because the inventory and analysis are either unnecessary or not technically feasible; amends the definitions of "disposal" and "treatment" in Title 38, section 1303-C to specify that incineration of hazardous waste is a method of treatment, not disposal. The civil liability provisions of section 1319-U, the definition of "responsible party" in section 1362 and the hazardous waste reduction techniques in section 2302 are amended to reflect the changes in the definitions of "disposal" and "treatment."

The bill repeals a provision of the uncontrolled hazardous substance site laws which grants a limited liability exemption for financial institutions and federal and state banking or lending agencies. This provision was made obsolete by passage of a similar but more comprehensive liability exemption provision in Public Law 1993, chapter 355.

COMMITTEE AMENDMENT "A" (H-995) adds an emergency clause and preamble. Part A of the amendment extends the exemption from inventory and analysis requirements for underground oil tanks to those that have monitoring devices able to detect the gain of 0.1 gallon of product per hour as well to those that detect product loss of 0.1 gallon. The amendment exempts owners and operators of commercial agricultural operations from the toxics user fee.

The amendment provides that a person who resolves his or her liability to the State for environmental response actions, costs or damages is not liable for claims for contribution by other potentially liable persons for actions, costs or damages addressed in the settlement. The amendment also provides that a person who brings suit against a person protected from contribution liability by this provision must pay the attorney's fees and other costs incurred by the protected person in the litigation.

Part B of the amendment exempts from certain recycling provisions of existing law the expansion of a commercial solid waste disposal facility that will handle only special waste. This Part also amends the procedural requirements that apply to the review of such a proposal by the Maine Waste Management Agency.

Part C of the amendment changes the municipal solid waste landfill remediation and closure program by requiring the department to separate open-municipal solid waste landfills into 2 categories: high-risk landfills, which are those landfills that pose known immediate and substantial risks to public health or the environment; and those landfills not known to be high risk.

High-risk landfills, licensed municipal solid waste landfills and landfills ordered to close after a department evaluation, where the state cost share for closure is immediately available, must close in accordance with rules and procedures established by the department. Other landfills may comply with the closure requirement by meeting a reduced closure option consisting of standards contained in federal rules, unless the landfill is disqualified from this closure option by virtue of having received hazardous industrial wastes or by being within a specified distance from a water supply well or an enclosed building. If the landfill is disqualified from the reduced option, but does not fall within the mandatory department rule closure method, the municipality must apply to the department for further direction. The department may decide to permit the municipality to close using the reduced closure option, or may permit that option only with additional closure or remediation standards determined by the department.

These changes in closure procedures do not apply to landfills for which a closure procedure is established prior to the effective date of the legislation by a legally binding consent agreement, license condition, enforcement order or other contract between the department and the municipality.

The amendment also changes the State's cost-share payments to municipalities for closure but not for remediation. Current law requires the State to pay, subject to availability of funds, 75% of the costs of planning and implementing closure actions, and 90% of the costs of planning and implementing remediation. The amendment provides that the State would pay 50% of that portion of the cost of capping the landfill that achieves the minimum federal permeability and thickness standards, and to pay 75% for costs associated with additional approved closure efforts. No cost-share remediation reduction from 75% to 50% will occur whenever any of the following apply: the cost was incurred prior to July 1, 1994; the cost was incurred pursuant to a written agreement entered into before July 1, 1994; the cost was incurred to perform closure actions required in a license that authorizes a landfill to operate after July 1, 1994; the cost was incurred to perform additional closing actions approved in writing by the department; or the cost was incurred by a municipality that was not required to close its landfill by October 9, 1994 by state or federal law, rule or regulation.

To receive reimbursement of costs, the municipal officers must certify that the closure was performed in accordance with the required standards. If the department must order additional closure or remediation activities as a result of the failure of the municipality to close in accordance with law and the certification was a negligent misrepresentation of material fact, the municipality is not eligible for cost sharing for those additional activities.

The amendment also changes the category of sites for which municipalities are prohibited from receiving landfill remediation grants. Current law excludes grants to remediate threats to any structure built or approved by the municipality. The amendment excludes grants for structures built by the municipality or any local government entity in which the municipality or its residents participates.

The amendment also allows unlicensed wood-waste, construction and demolition debris landfills to operate until April 9, 1994 and to operate until December 31, 1995 if the landfill operated as of December 31, 1993 and is separate from any municipal solid waste landfill that has accepted household waste.

The amendment also adds a fiscal note and emergency preamble to the bill and conforms existing law to current drafting standards.

LD 1764 An Act to Preserve Productive Forests

P & S 98
EMERGENCY

SPONSOR(S)
HOLT

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-846

SUMMARY

LD 1764 proposed certain limitations on timber harvesting practices in the unorganized areas of the State.

COMMITTEE AMENDMENT "A" (H-846) replaced the bill. The amendment directs the Department of Conservation to evaluate the laws governing forest practices and rules adopted to implement those laws. The amendment also requires the department to convene a technical working group to assess the market and nonmarket pressure being applied to the Maine forests. A report is required on the evaluation by April 1, 1995 and a report is required on the assessment by September 1, 1995.

Funding for the 4 positions identified in the amendment as necessary to perform the evaluation and the assessment was provided from the General Fund in the FY 1994-95 supplemental budget.

LD 1767 An Act to Establish the Public Access to Maine Waters Fund

PUBLIC 728

SPONSOR(S)
MARTIN J

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-879

SUMMARY

LD 1767 proposed to create the Lake and Ocean Frontage Acquisition Board to acquire lake and ocean frontage for the purposes of conservation, recreation and protection of wildlife and plant habitat.

COMMITTEE AMENDMENT "A" (H-879) replaced the bill. The amendment establishes the Public Access to Maine Waters Fund. The fund is administered by the Land for Maine's Future Board, but remains separate from the Land for Maine's Future Fund established by the Legislature in 1987.

The primary purpose of the new fund is to provide public access to fresh or coastal waters that presently have either no public access or very limited public access. The amendment directs the board to use money in the fund to buy land or interests in land to provide that access.

The fund is intended to be capitalized by the issuance of general obligation bonds, however, no bond referendum was proposed in the committee amendment or in any accompanying legislation introduced during the Second Regular Session of the 116th Legislature.

The amendment also adds a fiscal note to the bill and conforms existing law to current drafting standards.

LD 1769 An Act to Protect Maine's Lakes and Ponds

ONTP

SPONSOR(S)
BUSTIN
JACQUES

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

LD 1769 proposed to allow the State to establish water level regimes or minimum flow requirements for 6 generating dams that are "grandfathered" by the Federal Power Act of 1920 because of pre-existing federal