

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
NATURAL RESOURCES

MAY 1998

MEMBERS:

Sen. Sharon Anglin Treat, Chair

Sen. John M. Nutting

Sen. Jeffrey H. Butland

Rep. G. Steven Rowe, Chair

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**ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees
May 1998**

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....House & Senate disagree; bill died
DIED IN CONCURRENCE.....One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....Action incomplete when session ended; bill died
EMERGENCY.....Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....Bill imposing local mandate failed to get 2/3 vote
INDEF PP.....Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED.....Bill held by Governor
VETO SUSTAINED.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

2. Provide incentives for municipalities to reduce the incidence of backyard trash burning through the implementation of recycling and municipal trash collection service; and
3. Establish a program of public education to be administered in conjunction with the Department of Environmental Protection and the State Planning Office.

Committee Amendment "A" (H-797) proposed to require a forest ranger or fire warden, when issuing a permit for residential out-of-door burning of highly combustible trash, to consider the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection, and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling.

The amendment also proposed to delete from the bill a requirement for the Department of Conservation to undertake a program of public education on the impacts of out-of-door burning. The amendment also proposed to allow the State Planning Office, when providing technical and financial assistance for waste reduction and recycling, to give preference to municipalities that provide a municipal trash collection service or that prohibit residential out-of-door trash burning. Finally, the amendment proposed to add a fiscal note to the bill.

Committee of Conference Amendment "A" to Committee Amendment "A"(H-995), the report of the Committee of Conference, proposed to provide that the Director of the Bureau of Forestry or a forest ranger or fire warden delegated by the director may not deny a permit for residential out-of-door burning based on the consideration of the practicality of locating the incinerator at least 300 feet from an abutting property boundary and at least 150 feet from a residential dwelling.

Enacted law summary

Public Law 1997, chapter 672 requires a forest ranger or fire warden, when issuing a permit for residential out-of-door burning of highly combustible trash, to consider the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection, and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling. The law prohibits a ranger or warden from denying a permit based on the setback criteria. The law also allows the State Planning Office, when providing technical and financial assistance for waste reduction and recycling, to give preference to municipalities that provide a municipal trash collection service or that prohibit residential out-of-door trash burning.

LD 2092

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality

PUBLIC 603

<u>Sponsor(s)</u> COWGER	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-812
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LD 2092 proposed to clarify the definition in the natural resources protection laws of coastal sand dune systems to provide that these systems may include areas containing coarser materials such as gravel. This bill proposed to amend the site location of development law's exemption for roundwood and lumber storage yards to specifically include split firewood. It also proposed to correct a substantive conflict in the site location of development laws by providing that a municipality may have delegated authority to review developments or developments in the same municipality may be exempt under the capacity exemption, but not both.

This bill proposed to clarify a provision in the performance standards for excavation for borrow, clay, topsoil or silt laws that allows a medium pit owner or operator not licensed under the site law on October 1, 1993 to reclaim certain areas as ponds. It proposed to provide that further excavation is not allowed, without a variance from the department, in areas previously excavated within 5 feet of the seasonal high water table, or at or below the seasonal high water table. The bill also proposed to change the effective date of the site location of development law's erosion and stormwater standards and the new stormwater management law from July 1, 1997 to September 19, 1997.

Committee Amendment "A" (H-812) proposed to clarify the definition of subdivision in the site location of development laws to provide that a subdivision is either the division of a parcel of land into 5 or more lots on more than 20 acres or the division of a parcel of land into 15 or more lots on more than 30 acres if all lots are for single-family residential housing, common areas or open space.

The amendment also proposed to clarify that certain structures are exempt from review under the site location of development laws if located wholly within a municipality or municipalities meeting the criteria for capacity. The amendment also proposed to provide that, when a municipality is delegated authority to substitute its review of certain types of development for review under the site location of development laws and the Department of Environmental Protection determines that the municipality meets the criteria for capacity, the municipality's delegated authority must be suspended for the type of development that is exempt from review under the capacity standard.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 603 clarifies the definition in the natural resources protection laws of coastal sand dune systems to provide that these systems may include areas containing coarser materials such as gravel. The law also makes several changes to the site location of development laws. It clarifies the definition of subdivision to provide that a subdivision is either the division of a parcel of land into 5 or more lots on more than 20 acres or the division of a parcel of land into 15 or more lots on more than 30 acres if all lots are for single-family residential housing, common areas or open space. It amends the site location of development law's exemption for roundwood and lumber storage yards to specifically include split firewood. It clarifies that certain structures are exempt from review under the site location of development laws if located wholly within a municipality or municipalities meeting the criteria for capacity. It provides that, when a municipality is delegated authority to substitute its review of certain types of development for review under the site location of development laws and the Department of Environmental Protection determines that the municipality meets the criteria for capacity, the municipality's delegated authority must be suspended for the type of development that is exempt from review under the capacity standard.

The law clarifies a provision in the performance standards for excavation for borrow, clay, topsoil or silt laws that allows a medium pit owner or operator not licensed under the site law on October 1, 1993 to reclaim certain areas as ponds. It provides that further excavation is not allowed, without a variance from the department, in areas previously excavated within 5 feet of the seasonal high water table, or at or below the seasonal high water table.

The law also changes the effective date of the site location of development law's erosion and stormwater standards and the new stormwater management law from July 1, 1997 to September 19, 1997.