

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

*Bill Summaries
Joint Standing Committee
on
Natural Resources*

July 2003

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Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. 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 considered by the committees. It is arranged alphabetically by committee name 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:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Natural Resources

LD 1309

An Act To Protect Public Health by Reducing Human Exposure to Arsenic

PUBLIC 457

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	OTP-AM MAJ	H-490
BRENNAN	OTP-AM MIN	

LD 1309 proposed to require disclosure of the presence of arsenic in the water supply and in outdoor structures made with arsenic-treated wood when residential real property is sold. The bill proposed to ban the sale or distribution of arsenic-treated wood except for salt water or fresh water uses. The bill proposed to restrict the disposal of arsenic-treated wood to a lined landfill, prohibiting its burning as a fuel or its chipping, mulching or composting. The bill also proposed to require the Department of Human Services, Bureau of Health to report by October 1, 2004 on further actions to reduce human exposure to arsenic and on the need for a comprehensive safe drinking water program for private wells.

Committee Amendment "A" (H-490) was the majority report of the Joint Standing Committee on Natural Resources and proposed to replace the bill. The amendment proposed to require the seller of residential real property to provide to the purchaser information developed by the Department of Human Services on arsenic in private water supplies and treated wood. The amendment proposed to prohibit, as of the effective date of the legislation, retail businesses from purchasing arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency. The amendment also proposed to prohibit, as of April 1, 2004, the sale of arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency. The amendment proposed to prohibit the admission of the statute pertaining to arsenic-treated wood into evidence in any private-party civil proceeding against any wholesaler, retailer or installer of arsenic-treated wood. The amendment proposed to require the Department of Environmental Protection to develop a disposal plan for the safe management of arsenic-treated wood waste. It proposed to require the Department of Human Services to submit a report on the need for a comprehensive safe drinking water program for private wells to address arsenic. It proposed to require the Real Estate Commission to submit a report on the efforts within the real estate industry to increase awareness among real estate licensees and buyers and sellers of residential real estate of the hazards of arsenic in water supplies and treated wood, the need to test for arsenic in private water supplies and the need to identify and regularly coat with a sealant arsenic-treated wood structures. Finally, the amendment proposed to direct the Department of Environmental Protection to submit a report that contains a market evaluation of the sale and uses of arsenic-treated wood that are not prohibited under this legislation.

Committee Amendment "B" (H-491) was the minority report of the Joint Standing Committee on Natural Resources and proposed to replace the bill. The amendment proposed to require the seller of residential real property to provide to the purchaser information developed by the Department of Human Services on arsenic in private water supplies and treated wood. The amendment proposed to require retail establishments that sell arsenic-treated wood to post signs and label products as specified by the enhanced consumer awareness program developed in cooperation with the United States Environmental Protection Agency. The amendment proposed that after December 31, 2003, arsenic-treated lumber may not be manufactured for uses prohibited by the United States Protection Agency and after April 1, 2004, retailers must be in full compliance with the cancellation order issued by the United States Environmental Protection Agency. The amendment proposed to prohibit the admission of the statute pertaining to arsenic-treated wood into evidence in any private-party civil proceeding against any Maine manufacturer, wholesaler, retailer or installer of arsenic-treated wood. The amendment proposed to require the

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Department of Environmental Protection to develop a disposal plan for the safe management of arsenic-treated wood waste. It proposed to require the Department of Human Services to submit a report on the need for a comprehensive safe drinking water program for private wells to address arsenic. It proposed to require the Real Estate Commission to submit a report on the efforts within the real estate industry to increase awareness among real estate licensees and buyers and sellers of residential real estate of the hazards of arsenic in water supplies and treated wood, the need to test for arsenic in private water supplies and the need to identify and regularly coat with a sealant arsenic-treated wood structures. Finally, the amendment proposed to direct the Department of Environmental Protection to submit a report containing a market evaluation of the sale and uses of arsenic-treated wood that are not prohibited under this legislation. This amendment was not adopted.

House Amendment "A" to Committee Amendment "A" (H-508) proposed to prohibit reference to the arsenic-treated wood products statutes in instructions to a jury. This amendment was not adopted.

House Amendment "A" to Committee Amendment "B" (H-507) proposed to strike the language from Committee Amendment "B" that requires a retail establishment that sells arsenic-treated wood or wood products to post signs and label products as specified in the enhanced consumer awareness program. The amendment also proposed to prohibit including in instructions to a jury reference to the arsenic-treated wood products statute and to expand the prohibition of admitting into evidence the arsenic-treated wood products statute in a civil trial to include suits against any, not just Maine, manufacturers, distributors, wholesalers, retailers or installers. This amendment was not adopted.

House Amendment "B" to Committee Amendment "A" (H-545) proposed to remove the ban on the purchase of arsenic-treated wood and wood products by retail businesses and to remove the ban on the sale of those products. The amendment also proposed to define arsenic-treated wood. This amendment was not adopted.

Senate Amendment "A" (S-241) proposed to remove the ban on the purchase of arsenic-treated wood and wood products by retail businesses and to remove the ban on the sale of those products. This amendment was not adopted.

Senate Amendment "B" to Committee Amendment "A" (S-247) proposed to remove the ban on the purchase of arsenic-treated wood and wood products by retail businesses and to remove the ban on the sale of those products. The amendment also proposed to define arsenic-treated wood. This amendment was not adopted.

Enacted Law Summary

Public Law 2003, chapter 457 requires the seller of residential real property to provide to the purchaser information developed by the Department of Human Services on arsenic in private water supplies and treated wood. It prohibits, as of September 13, 2003, retail businesses from purchasing arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency. It prohibits, as of April 1, 2004, the sale of arsenic-treated wood or wood products for residential uses that are not included as permitted uses in a notice of cancellation order issued by the United States Environmental Protection Agency. It prohibits the admission of the statute pertaining to arsenic-treated wood into evidence in any private-party civil proceeding against any wholesaler, retailer or installer of arsenic-treated wood. It requires the Department of Environmental Protection to develop a disposal plan for the safe management of arsenic-treated wood waste. It requires the Department of Human Services to submit a report on the need for a comprehensive safe drinking water program for private wells to address arsenic. It requires the Real Estate Commission to submit a report on the efforts within the real estate industry to increase awareness among real estate licensees and buyers and sellers of residential real estate of the hazards of arsenic in water supplies and treated wood, the need to test for arsenic in private water supplies and the need to identify and

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regularly coat with a sealant arsenic-treated wood structures. Finally, it also directs the Department of Environmental Protection to submit a report that contains a market evaluation of the sale and uses of arsenic-treated wood that are not prohibited under this legislation.

LD 1367

An Act To Amend the Laws Regarding Junkyards, Automobile Graveyards and Automobile Recycling Businesses

PUBLIC 312

Sponsor(s)
HUTTON
TURNER

Committee Report
OTP-AM

Amendments Adopted
H-381

LD 1367 proposed to amend the State's junkyard statutes in several ways for the purpose of improving the ability of municipalities to appropriately license junkyards, automobile recycling businesses and automobile graveyards.

The bill proposed to change the standard that defines an automobile graveyard from 3 or more "unserviceable" motor vehicles to 3 or more uninspected or unregistered motor vehicles and to provide exemptions from regulation for automobile hobbyists, areas used for temporary storage and areas used for temporary storage of operational farm tractors.

The bill also proposed to establish basic operational standards for all junkyards, automobile graveyards and automobile recycling businesses to provide minimal environmental protection. The bill proposed to create a 100-foot setback from bodies of water for the placement of junked automobiles that contain fluids and to increase from 100 feet to 300 feet the setback of newly licensed facilities from public or private drinking water supplies.

The bill also proposed to establish a process to notify abutters of the public hearing held prior to the issuance of any new junkyard's, automobile graveyard's or automobile recycling business's first license and to incorporate into statute fencing and screening standards previously located in the Department of Transportation regulations.

The bill also proposed to clarify the ability of municipalities to enforce the provisions of the State's junkyard law and effect the abatement of junkyard nuisances. The bill proposed to specify that a municipality has 3 available methods to recover the costs of prosecuting a junkyard violation: a civil action, a lien on the real estate or a special tax assessment as municipalities are currently authorized to recover the costs of abating a failed septic system.

Committee Amendment "A" (H-381) proposed to add to the areas that are exempt from the definition of "automobile graveyard" and to the definition of "automobile recycling business." In particular, the amendment proposed to exempt from the definitions new vehicle dealers and insurance salvage pools. The amendment also proposed to exempt from the definition of "automobile graveyard" areas that are used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment. The amendment also proposed to specify that, beginning in 2004, permits issued to automobile graveyards or junkyards are valid until October of the following year. The amendment also proposed to limit the ban on new permits for automobile graveyards or junkyards to areas that are located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery.