

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Natural Resources*

August 2005

Members:

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Sen. John L. Martin
Sen. Lois A. Snowe-Mello*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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:

- CARRIED OVER Bill Carried Over to Second Regular Session
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
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
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 First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

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LD 1578 **An Act To Ensure Certain Protections to Communities Hosting Waste-to-energy Facilities** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS TWOMEY		

LD 1578 proposes to provide that a community that hosts a waste-to-energy facility may adopt its own reasonable rules on the transportation of solid waste, municipal solid waste, special waste and refuse-derived fuel through that community. It also proposes to provide that an agreement between an incineration facility and a community must include certain provisions to protect that community. LD 1578 was carried over by H. P. 1203 to any special or regular session of the 122nd Legislature.

LD 1588 **An Act To Amend Certain Laws Administered by the Department of Environmental Protection** **PUBLIC 330**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN COWGER	OTP-AM MAJ ONTP MIN	H-564

LD 1588 proposed to make the following changes to laws administered by the Department of Environmental Protection. It proposed to:

1. Repeal sections providing for issuance of permits by the Board of Environmental Protection for activities affecting coastal wetlands;
2. Redirect appeals of decisions by the Board of Underground Oil Storage Tank Installers from District Court to Superior Court;
3. Clarify that a producer of biofuels must offer the biofuels for sale and must receive income derived from the sale of the biofuels in order to qualify for an income tax credit;
4. Amend the requirement that the department always hold a presubmission meeting if a preapplication meeting is held. The bill proposed to provide that the department may choose not to hold a presubmission meeting if the department determines that the presubmission meeting is unnecessary based upon factors such as the complexity and status of the application;
5. Make the administrative appeals deadline consistent for all Department of Environmental Protection enforcement actions;
6. Change a date in the definition of "Code of Federal Regulations" to include regulations effective on or before January 1, 2005;
7. Change a date in the definition of "Federal Water Pollution Control Act" to include amendments effective on or before January 1, 2005;

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8. Change the review period for a storm water application proposing solely vegetative measures from 30 to 45 days;
9. Clarify the classification of waters to indicate that the "Clifford Brook" currently listed in the Maine Revised Statutes, Title 38, section 467, subsection 3, paragraph B, subparagraph (7) is located in Marion Township;
10. Remove a reference to a debris line as it relates to determining the edge of the coastal wetland. It also proposed to clarify the criterion for determining the elevation of the edge of the coastal wetland by changing "spring tide" to "highest tide level for each year in which an activity is proposed";
11. Clarify the jurisdiction of the Department of Environmental Protection and the Maine Land Use Regulation Commission when review is required under the laws governing the protection of natural resources and an activity is located in areas both within and outside the jurisdiction of the Maine Land Use Regulation Commission;
12. Amend the laws governing the protection of natural resources to add an exemption for the installation, maintenance or removal of a licensed overboard discharge treatment system, including the outfall pipe, if certain requirements are met;
13. Remove a reference to a list of endangered or threatened species that has been repealed and replace it with a reference to a section that defines those terms;
14. Restore a permit threshold to the laws governing site location of development specific to the exploration or production of oil or gas, including drilling or excavation under water;
15. Clarify the jurisdiction of the Department of Environmental Protection and the Maine Land Use Regulation Commission when review is required under the laws governing site location of development and a development is located in areas both within and outside the jurisdiction of the Maine Land Use Regulation Commission;
16. Delete obsolete references to the "board of arbitration" from the laws governing oil spill damage claims;
17. Correct a statutory reference to oil storage tank rules administered by the State Fire Marshal in the laws governing coverage of oil spill clean-up costs by the Ground Water Oil Clean-up Fund. It also proposed to clarify that those seeking fund coverage of oil spill clean-up costs must pay a \$10,000 deductible if they failed to report the spill for which coverage is sought;
18. Correct a cross-reference in the laws governing the reporting and removal of hazardous matter discharges;
19. Amend the laws governing the reporting of hazardous matter discharges to incorporate revisions to the reportable quantities under federal law;
20. Amend the laws governing uncontrolled hazardous substance sites so that references to the Commissioner of Environmental Protection are gender neutral;
21. Amend the laws governing the recycling of electronic waste to change the date when the department must begin providing manufacturers of televisions and computer monitors with a listing of their pro rata share of the waste stream;

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22. Repeal a reporting and potential hearing requirement related to progress achieved in meeting the requirements of the Maine Revised Statutes, Title 38, section 414-C regarding color pollution control;
23. Change the annual due date for a report on dioxin from January 1st to March 31st; and
24. Correct a citation error.

Committee Amendment "A" (H-564), the majority report, proposed to:

1. Clarify text describing the classification of the East Machias River tributaries;
2. Clarify the definition of "coastal wetlands" to make it consistent between the natural resources protection laws and the mandatory shoreland zoning laws;
3. Clarify that the oil or gas exploration or production development being addressed must include drilling or excavation under water;
4. Clarify the jurisdiction of the Department of Environmental Protection and the Maine Land Use Regulation Commission under the natural resources protection laws and the site location of development law when development activity spans both department and commission jurisdictions;
5. Provide for service of orders by a sheriff or deputy sheriff; delete provisions in the bill for service by certified mail; and add language requiring that the Board of Environmental Protection's decisions be in writing, signed by the chair and published within 2 working days of the decision;
6. Delete sections of the bill that proposed to change report dates;
7. Authorize a fee for after-the-fact applications submitted to the Department of Environmental Protection;
8. Add a new section authorizing the Department of Environmental Protection to participate in the regional greenhouse gas initiative outlined in Maine's climate action plan. The proposed amendment would authorize the department to submit legislation to implement measures necessary to meet the goals of Maine's climate action plan;
9. Extend the deadline by which the Board of Environmental Protection is to adopt rules that establish water use standards for maintaining in-stream flows and GPA lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use; and
10. Add new sections that amend the laws on recycling of electronic waste to do the following:
 - A. Clarify that the law applies to manufacturers of covered electronic devices even if that manufacturer no longer produces the covered device;
 - B. Establish November 1, 2005 as the date by which the department must adopt rules specifying the procedure for allocating the costs of electronics recycling;
 - C. Change the date by which computer monitor manufacturers and television manufacturers are responsible for recycling of covered electronics;

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- D. Extend the effective date of the disposal ban on electronic waste from January 1, 2006 to 9 months after the Department of Environmental Protection adopts rules;
- E. Allow manufacturers of covered electronics to revise their plans for collecting and recycling the electronics as needed in response to changing circumstances; and
- F. Make the manufacturer of covered electronics liable for costs incurred by the State as a result of the manufacturer's failure to reimburse the costs of recycling covered electronics.

Enacted law summary

Public Law 2005, chapter 330 makes the following changes to laws administered by the Department of Environmental Protection.

1. It repeals sections providing for issuance of permits by the Board of Environmental Protection for activities affecting coastal wetlands.
2. It redirects appeals of decisions by the Board of Underground Oil Storage Tank Installers from District Court to Superior Court.
3. It clarifies that a producer of biofuels must offer the biofuels for sale and must receive income derived from the sale of the biofuels in order to qualify for an income tax credit.
4. It amends the requirement that the department always hold a presubmission meeting if a preapplication meeting is held. The bill provides that the department may choose not to hold a presubmission meeting if the department determines that the presubmission meeting is unnecessary and the applicant agrees not to hold a presubmission meeting.
5. It amends administrative appeal deadlines and service provisions.
6. It changes a date in the definition of "Code of Federal Regulations" to include regulations effective on or before January 1, 2005.
7. It changes a date in the definition of "Federal Water Pollution Control Act" to include amendments effective on or before January 1, 2005.
8. It changes the review period for a storm water application proposing solely vegetative measures from 30 to 45 days.
9. It clarifies the classification of waters to indicate that the "Clifford Brook" currently listed in the Maine Revised Statutes, Title 38, section 467, subsection 3, paragraph B, subparagraph (7) is located in Marion Township.
10. It amends the laws governing the protection of natural resources to add an exemption for the installation, maintenance or removal of a licensed overboard discharge treatment system, including the outfall pipe, if certain requirements are met.
11. It removes a reference to a list of endangered or threatened species that has been repealed and replaces it with a reference to a section that defines those terms.

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12. It restores a permit threshold to the laws governing site location of development specific to oil or gas exploration or production that includes drilling or excavation under water.
13. It deletes obsolete references to the "board of arbitration" from the laws governing oil spill damage claims.
14. It corrects a statutory reference to oil storage tank rules administered by the State Fire Marshal in the laws governing coverage of oil spill clean-up costs by the Ground Water Oil Clean-up Fund. It also clarifies that those seeking fund coverage of oil spill clean-up costs must pay a \$10,000 deductible if they failed to report the spill for which coverage is sought.
15. It corrects a cross-reference in the laws governing the reporting and removal of hazardous matter discharges.
16. It amends the laws governing the reporting of hazardous matter discharges to incorporate revisions to the reportable quantities under federal law.
17. It amends the laws governing uncontrolled hazardous substance sites so that references to the Commissioner of Environmental Protection are gender neutral.
18. It clarifies the definition of "coastal wetlands" and makes it consistent between the natural resources protection laws and the mandatory shoreland zoning laws.
19. It clarifies the jurisdiction of the Department of Environmental Protection and the Maine Land Use Regulation Commission under the natural resources protection laws and the site location of development law when development activity spans both department and commission jurisdictions.
20. It authorizes a fee for after-the-fact applications submitted to the Department of Environmental Protection.
21. It authorizes the Department of Environmental Protection to participate in the regional greenhouse gas initiative outlined in Maine's climate action plan. It also authorizes the department to submit legislation to implement measures necessary to meet the goals of Maine's climate action plan.
22. It extends the deadline by which the Board of Environmental Protection is to adopt rules that establish water use standards for maintaining in-stream flows and GPA lake or pond water levels that are protective of aquatic life and other uses and that establish criteria for designating watersheds most at risk from cumulative water use.
23. It amends the laws on recycling of electronic waste to do the following:
 - A. It clarifies that the law applies to manufacturers of covered electronic devices even if that manufacturer no longer produces the covered device;
 - B. It establishes November 1, 2005 as the date by which the Department of Environmental Protection must adopt rules specifying the procedure for allocating the costs of electronics recycling;
 - C. It establishes 90 days after the department adopts rules as the date by which computer monitor manufacturers and television manufacturers are responsible for recycling of covered electronics;
 - D. It extends the effective date of the disposal ban on electronic waste from January 1, 2006 to 9 months after the department adopts rules;

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- E. It changes the date that the department must begin providing manufacturers of television and computer monitors with a listing of their pro rata share of the waste stream;
- F. It allows manufacturers of covered electronics to revise their plans for collecting and recycling the electronics as needed in response to changing circumstances; and
- G. It makes the manufacturer of covered electronics liable for costs incurred by the State as a result of the manufacturer's failure to reimburse the costs of recycling covered electronics.

LD 1592

An Act Regarding Disposal of Dredged Materials

CARRIED OVER

Sponsor(s)

Committee Report

Amendments Adopted

LD 1592 proposes to remove the provision in current law that exempts holders of a permit issued under the United States Clean Water Act, Public Law 92-500, Section 404 from obtaining a waste discharge license for the disposal of dredged materials into waters of the State. It also proposes to require coastal municipalities to develop a plan for the disposal of dredge spoils. LD 1592 was carried over by H. P. 1203 to any special or regular session of the 122nd Legislature.

LD 1633

An Act To Prohibit the Disposal of Dangerous and Unsafe Material in Solid Waste Facilities

**PUBLIC 406
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

DAIGLE
COWGER

OTP-AM MAJ
OTP-AM MIN

H-551
H-622 MILLS J

LD 1633 proposed to make it a Class E crime to knowingly conceal dangerous or unsafe material and dispose of that material in a solid waste facility.

Committee Amendment "A" (H-551), the majority report, proposed to provide that rules adopted by the Department of Environmental Protection to define "dangerous or unsafe material" are routine technical rules. It also proposed to clarify the definition of "dangerous or unsafe material."

Committee Amendment "B" (H-552), the minority report, proposed to direct the Department of Environmental Protection to develop an educational outreach effort for the purpose of educating the public on the proper disposal of propane tanks and other dangerous materials. This amendment was not adopted.

House Amendment "A" (H-622) proposed to change the penalty for concealing or disposing dangerous or unsafe material from a Class E crime to a civil violation.

Enacted law summary