

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

JOINT STANDING COMMITTEE ON NATURAL RESOURCES

May 2008

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STATE OF MAINE
123RD LEGISLATURE
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**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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>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; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</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>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

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gravel pits and quarries that were authorized prior to June 8, 2006.

LD 2048 An Act To Protect Children's Health and the Environment from Toxic Chemicals in Toys and Children's Products

PUBLIC 643

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE	OTP-AM MAJ OTP-AM MIN	H-898 H-948 PINGREE H-973 TARDY S-622 RAYE S-629 HOBBS S-632 MARTIN S-643 MARTIN

This bill requires manufacturers of children's products that contain chemicals of high concern to disclose information to the Department of Environmental Protection on their chemical use if the department designates the chemical as a priority chemical based on potential exposure of a child or fetus to that chemical. The bill authorizes the department to require replacement of a priority chemical in children's products with a safer alternative whenever it determines that a safer alternative is available for a specified use. The bill exempts use of priority chemicals for industrial or manufacturing purposes, in motor vehicles and components, as fuels or that are generated as combustion by-products. The bill authorizes the department to participate in an interstate clearinghouse to share information and cooperate with other states to promote safer chemicals in consumer products. The bill requires the department to report to the Legislature on implementation plans and related issues.

Committee Amendment "A" (H-898)

This amendment is the majority report. The amendment adds a declaration of policy. The amendment deletes the requirement to identify 100 priority chemicals of high concern. The amendment adds a provision authorizing the Department of Environmental Protection to include on the list of chemicals of high concern chemicals identified by specified entities. Prior to designating priority chemicals, the Department of Environmental Protection is required to consult with affected industries, independent experts and other interested parties and with the Department of Health and Human Services, Maine Center for Disease Control and Prevention. The amendment replaces a mandatory review and determination of safer alternatives by the Commissioner of Environmental Protection with authority granted to the Board of Environmental Protection to adopt rules restricting the sale of children's products containing priority chemicals if safer alternatives are available. The amendment authorizes the Commissioner of Environmental Protection to designate mercury or a mercury compound as a priority chemical for the purpose of adopting rules to prohibit the sale of a mercury-added product that is not currently regulated under the Maine Revised Statutes, Title 38, section 1661-C or 1667. The amendment repeals the biennial reporting requirement on brominated flame retardants for the purpose of freeing up existing resources to implement this chapter.

House Amendment "A" (H-948)

This amendment amends Committee Amendment "A" by clarifying the definition of "consumer product" to exclude paper or forest products. It allows additional information on priority chemicals to be provided by the manufacturer and distributor of children's products. It clarifies application of the new law on priority chemicals used in industry. It adds an exemption for watercraft. It also clarifies that the requirements are not exempt for packaging food and beverage products for the use of children under 3 years of age.

House Amendment "B" (H-973)

Under the provisions of Committee Amendment "A," the Department of Environmental Protection is allowed to assess a fee on a manufacturer or distributor to cover the costs to prepare an independent report regarding safer

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alternatives and to cover the department's reasonable costs in managing information it receives from a manufacturer or distributor. This amendment specifies that the determination of the fee amount must be done through major substantive rulemaking.

Senate Amendment "E" (S-622)

This amendment:

1. Changes the definition of "children's product" to specify that it applies to a product containing a chemical of high concern that will likely result in exposure to that chemical by a child or fetus;
2. Requires the Department of Environmental Protection and the Department of Health and Human Services, Maine Center for Disease Control and Prevention to be in concurrence regarding the identification of chemicals of high concern and the identification of priority chemicals; and
3. Requires the Commissioner of Environmental Protection to convene a stakeholder group prior to designating priority chemicals that includes representatives of nonprofit health organizations, business and environmental groups, consumer product manufacturers, chemical manufacturers, retailers, trade associations and other parties affected by this legislation and to invite independent experts with relevant experience in chemicals to participate. The commissioner is required to seek recommendations from the stakeholder group regarding protocols for designating priority chemicals, rulemaking to implement the requirements of the toxic chemicals in children's products provisions and other issues of concern to the stakeholder group.

Senate Amendment "I" (S-629)

Under Committee Amendment "A," the identification of priority chemicals by the Commissioner of Environmental Protection is exempt from the Maine Administrative Procedure Act. This amendment removes that exemption and requires the identification to be done through routine technical rulemaking.

Senate Amendment "K" (S-632)

This amendment exempts a service provider whose name appears on a telecommunications device from the disclosure requirements of the Maine Revised Statutes, Title 38, section 1695.

Senate Amendment "L" (S-643)

This amendment changes the definition of the term "manufacturer" to specify that this term includes the first domestic distributor of the consumer product as opposed to simply the domestic distributor of the consumer product.

Enacted Law Summary

Public Law 2007, chapter 643 requires the Department of Environmental Protection in concurrence with the Maine Center for Disease Control and Prevention to publish a list of chemicals of high concern. To be included in the list a chemical must have been identified as: a carcinogen, reproductive or developmental toxicant or endocrine disruptor; persistent, bioaccumulative and toxic; or very persistent and very bioaccumulative.

It authorizes the Commissioner of Environmental Protection to designate a chemical of high concern as a priority chemical if the commissioner in concurrence with the Maine CDC makes certain findings that are identified in the law. The commissioner is required to designate at least two priority chemicals by January 1, 2011. Rules adopted to implement the law regarding the designation of priority chemicals are routine technical rules. Chapter 643 also requires the Commissioner of Environmental Protection to convene a stakeholder group prior to designating priority chemicals that includes representatives of nonprofit health organizations, business and environmental groups, consumer product manufacturers, chemical manufacturers, retailers, trade associations and other parties affected by this legislation and to invite independent experts with relevant experience in chemicals to participate. The commissioner is required to seek recommendations from the stakeholder group regarding protocols for designating priority chemicals, rulemaking to implement the requirements of the toxic chemicals in children's products

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provisions and other issues of concern to the stakeholder group.

If a children's product contains a priority chemical, the manufacturer or distributor of that product must notify the department. Supplemental information, including information on alternatives, may be required by the department. Under chapter 643, if the Department of Environmental Protection assesses a fee on a manufacturer or distributor to cover the costs to prepare an independent report regarding safer alternatives or to cover the department's reasonable costs in managing information it receives from a manufacturer or distributor, the determination of the fee must be done through major substantive rulemaking.

The Board of Environmental Protection may adopt major substantive rules prohibiting the manufacture or sale of a children's product containing a priority chemical if it finds that distribution of the product exposes children and vulnerable populations to the priority chemical and safer alternatives to the priority chemical are available at a comparable cost. If the Board of Environmental Protection prohibits the manufacture or sale of a children's product the manufacturer or distributor of the product must file a compliance plan with the commissioner or seek a waiver.

The law does not apply to: used products, chemicals for industrial or manufacturing purposes, motor vehicles or watercraft, chemicals generated solely as combustion by-products, retailers (unless they knowingly sell the children's product after receiving prior notification), products containing mercury that are regulated prior to the effective date of this law, telecommunications service providers and containers or packaging for a food or beverage product unless that product is intentionally marketed or intended for the use of children under 3 years of age. In addition, other items are excluded from the definition of "consumer product" and are therefore not covered by this law.

Chapter 643 authorizes the Department of Environmental Protection to participate in an interstate clearinghouse to promote safer chemicals in consumer products.

LD 2056 An Act To Conserve Gasoline and Preserve Clean Air

PUBLIC 582

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HINCK	OTP-AM	H-765 H-820 HINCK

This bill sets limits on idling of motor vehicles. It provides that a person who owns a location where a diesel-powered commercial motor vehicle loads or unloads may not cause such a vehicle to idle for a period longer than 30 minutes while waiting to load or unload at that location. It provides that an owner or operator of a diesel-powered commercial motor vehicle may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period, subject to certain exemptions, such as while waiting to load or unload a vehicle. It provides that an owner or operator of a gasoline-powered motor vehicle, except a private passenger vehicle, may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period, subject to certain exceptions. It requires a warning to be issued for a first violation and a fine to be adjudged for a subsequent violation.

Committee Amendment "A" (H-765)

This amendment expands the application of the idling requirements and exemptions to include all commercial motor vehicles, not only diesel-powered. The amendment also:

1. Amends the general requirement for loading and unloading locations to require that, to the maximum extent practicable, a person who owns a location where a commercial motor vehicle, not subject to an exemption, loads or unloads must minimize delays in loading and unloading operations in order to reduce idling times;
2. Amends the exemption for emergency vehicles;
3. Creates an exemption for a utility vehicle idling during electric utility service restoration operations or when