

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES**

July 2011

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STATE OF MAINE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted. The amendment requires the replacement of understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible. The amendment requires a 5-year management plan to be developed, which must address how the replacement trees must be maintained to enable them to grow to a healthy, mature height.

Enacted Law Summary

Under current law, except for timber harvesting, when a person cuts down a tree or understory vegetation in violation of the shoreland zoning laws, that person is required to replace each tree with a tree of substantially similar size and species to the extent available and feasible. Public law 2011, chapter 228 requires the replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted. It requires the replacement of understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible. It requires a 5-year management plan to be developed, which must address how the replacement trees must be maintained to enable them to grow to a healthy, mature height.

LD 1129

An Act To Provide the Department of Environmental Protection with Regulatory Flexibility Regarding the Listing of Priority Chemicals

PUBLIC 319

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMPER	OTP-AM	H-421

This bill makes a number of changes to the priority chemical program, including:

1. Amending the Maine Administrative Procedure Act to require that the Legislature receive notification through the regulatory agenda process of any proposals to regulate chemicals pursuant to the Maine Revised Statutes, Title 38, chapter 16-D before rulemaking may be initiated;
2. Providing the Department of Environmental Protection with a process by which it can respond to developments in science to remove the designation of and de-list a chemical that is ultimately found to not pose a risk to human health;
3. Designating rules adopted by the Department of Environmental Protection that designate chemicals of high concern as priority chemicals to be major substantive rules;
4. Establishing de minimus levels of chemical concentrations in children's products;
5. Establishing clear exposure criteria for designation of priority chemicals;
6. Removing the presumptions regarding safer alternatives to a priority chemical;
7. Reducing regulatory duplication with other state or federal programs; and
8. Increasing from 10 to 45 days the amount of time a manufacturer or distributor of a product offered for sale in violation of the priority chemical requirements has to provide evidence that the product is not in violation or notify persons who sell the product.

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Committee Amendment "A" (H-421)

This amendment replaces the bill. The amendment makes a number of changes to the priority chemical program.

1. It prohibits the Department of Environmental Protection from initiating rulemaking under the Maine Revised Statutes, Title 38, chapter 16-D unless the chemical at issue has been included in a regulatory agenda disclosed to the Legislature pursuant to the Maine Administrative Procedure Act or the rulemaking is in response to a petition by a person to adopt or modify a rule pursuant to the Maine Administrative Procedure Act.
2. It changes the name of the list of "chemicals of high concern" to "chemicals of concern." Conforming name changes are made throughout the amendment. By January 1, 2012, the department is required to remove chemicals from the original list that are exempt from regulation. A person may petition for removal of chemicals that don't meet the listing criteria.
3. By July 1, 2012, a new list of up to 70 "chemicals of high concern" must be developed by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and published by the Department of Environmental Protection based on a finding of strong credible evidence of toxicity and one or more indicators of likely exposure.
4. "De minimis level" is defined. For a chemical present in a product as a contaminant, the de minimis level is 100 parts per million. For a chemical that's intentionally added to a product by a manufacturer, the de minimis level is the practical quantification limit, which is the lowest concentration of the chemical that can be reliably and accurately measured.
5. The Commissioner of Environmental Protection is required to review the published list of chemicals of high concern at least every 3 years and may, with the concurrence of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, remove chemicals that no longer meet the listing criteria and may add chemicals that meet the criteria. The list of chemicals of high concern may not consist of more than 70 or fewer than 10 chemicals, unless fewer than 10 meet the listing criteria.
6. Effective July 1, 2012, a "priority chemical" may be designated only if the chemical has been listed on the list of chemicals of high concern.
7. The definition of "children's product" is amended by limiting it to those products intended, made and marketed for use by children under 12 years of age and other consumer products through which a child under 12 years of age or a fetus is likely to be exposed to a chemical of concern.
8. The definition of "consumer product" is narrowed to mean items sold for indoor use in a residence, child care facility or school, or for outdoor residential use if children may have direct contact with the items.
9. Definitions of "credible scientific evidence" and "practical quantification limit" have been added.
10. The criteria to be considered for designating a priority chemical are reduced from 6 to 3.
11. In determining whether a safer alternative is available, the Department of Environmental Protection may presume that a safer alternative is available if another state bans that chemical only if that state based its action on the availability of safer alternatives.
12. It provides that the Department of Environmental Protection may consider the extent to which a chemical is adequately regulated by the Federal Government or another state agency in Maine in exercising its discretionary authority under the law.

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13. It provides that the following are exempt from the requirements for disclosing information for priority chemicals and from any sales prohibition:
- A. Inaccessible components, except that the Department of Environmental Protection may adopt a rule based on a case-by-case evaluation to subject inaccessible components to those requirements; and
 - B. A priority chemical that occurs in a product component only as a contaminant, if the manufacturer had a manufacturing control plan and exercised due diligence.

14. It allows a manufacturer 30 days instead of 10 days to respond to the Department of Environmental Protection's request for a certificate of compliance.

15. It provides that any reporting requirements for products containing existing priority chemicals that have been adopted by rule by the Department of Environmental Protection are extended to the effective date of this legislation. It makes this provision retroactive to the date the reports are currently required, July 8, 2011.

Enacted Law Summary

Public Law 2011, chapter 319 makes a number of changes to the priority chemical program.

1. It prohibits the Department of Environmental Protection from initiating rulemaking under the Maine Revised Statutes, Title 38, chapter 16-D unless the chemical at issue has been included in a regulatory agenda disclosed to the Legislature pursuant to the Maine Administrative Procedure Act or the rulemaking is in response to a petition by a person to adopt or modify a rule pursuant to the Maine Administrative Procedure Act.
2. It changes the name of the list of "chemicals of high concern" to "chemicals of concern." Conforming name changes are made throughout the law. By January 1, 2012, the department is required to remove chemicals from the original list that are exempt from regulation. A person may petition for removal of chemicals that don't meet the listing criteria.
3. By July 1, 2012, a new list of up to 70 "chemicals of high concern" must be developed by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and published by the Department of Environmental Protection based on a finding of strong credible evidence of toxicity and one or more indicators of likely exposure.
4. "De minimis level" is defined. For a chemical present in a product as a contaminant, the de minimis level is 100 parts per million. For a chemical that's intentionally added to a product by a manufacturer, the de minimis level is the practical quantification limit, which is the lowest concentration of the chemical that can be reliably and accurately measured.
5. The Commissioner of Environmental Protection is required to review the published list of chemicals of high concern at least every 3 years and may, with the concurrence of the Department of Health and Human Services, Maine Center for Disease Control and Prevention, remove chemicals that no longer meet the listing criteria and may add chemicals that meet the criteria. The list of chemicals of high concern may not consist of more than 70 or fewer than 10 chemicals, unless fewer than 10 meet the listing criteria.
6. Effective July 1, 2012, a "priority chemical" may be designated only if the chemical has been listed on the list of chemicals of high concern.
7. The definition of "children's product" is amended by limiting it to those products intended, made and marketed for use by children under 12 years of age and other consumer products through which a child under 12 years of age or a fetus is likely to be exposed to a chemical of concern.

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8. The definition of "consumer product" is narrowed to mean items sold for indoor use in a residence, child care facility or school, or for outdoor residential use if children may have direct contact with the items.
9. Definitions of "credible scientific evidence" and "practical quantification limit" have been added.
10. The criteria to be considered for designating a priority chemical are reduced from 6 to 3.
11. In determining whether a safer alternative is available, the Department of Environmental Protection may presume that a safer alternative is available if another state bans that chemical only if that state based its action on the availability of safer alternatives.
12. It provides that the Department of Environmental Protection may consider the extent to which a chemical is adequately regulated by the Federal Government or another state agency in Maine in exercising its discretionary authority under the law.
13. It provides that the following are exempt from the requirements for disclosing information for priority chemicals and from any sales prohibition:
 - A. Inaccessible components, except that the Department of Environmental Protection may adopt a rule based on a case-by-case evaluation to subject inaccessible components to those requirements; and
 - B. A priority chemical that occurs in a product component only as a contaminant, if the manufacturer had a manufacturing control plan and exercised due diligence.
14. It allows a manufacturer 30 days instead of 10 days to respond to the Department of Environmental Protection's request for a certificate of compliance.
15. It provides that any reporting requirements for products containing existing priority chemicals that have been adopted by rule by the Department of Environmental Protection are extended to the effective date of this legislation. It makes this provision retroactive to the date the reports are currently required, July 8, 2011.

LD 1146 Resolve, To Direct the Department of Environmental Protection To ONTP
Adopt Rules Establishing Sound Level Limits for Wind Turbines

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO	ONTP	

This resolve directs the Department of Environmental Protection to adopt rules regulating sound level limits for industrial grade wind turbines for sound generated both in the audible range and in the low frequency subaudible range.

LD 1156 An Act To Exempt from Subdivision Requirements Land Sold by 65 ONTP
Years of Age or Older Persons

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT KATZ	ONTP	