

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

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

June 2012

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STATE OF MAINE

125TH LEGISLATURE
SECOND REGULAR SESSION



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 Second 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.

<i>CARRIED OVER</i>	<i>carried over to a subsequent session of the Legislature</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; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation 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>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 of the 125th Legislature is Thursday, August 30, 2012. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Environment and Natural Resources

LD 1738

**An Act To Make Minor Adjustments to Laws Administered by the
Department of Environmental Protection**

PUBLIC 538

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMPER	OTP-AM A OTP B OTP-AM C	H-752

This bill makes changes to the laws administered by the Department of Environmental Protection.

Committee Amendment "A" (H-752)

This amendment is the majority report of the committee. The amendment does the following.

1. It requires a proposed consent agreement to be posted on the Department of Environmental Protection's website with the notice of the proposed agreement. The bill requires that only the notice be posted.
2. It clarifies that the permit exemption for minor expansions of structures in coastal sand dune systems does not apply to expansions of seawalls, retaining walls, closed fences or other structures used to stabilize the shoreline or to prevent the movement of sand or water. It also clarifies that the exemption does not apply to an expansion that changes the type of structure. It also amends the definition of "footprint."
3. It authorizes the Commissioner of Environmental Protection to adopt initial routine technical rules allowing for the reconstruction of an existing structure in a frontal dune if certain criteria are met. Any amendments to those rules are major substantive rules adopted by the Board of Environmental Protection.

Enacted Law Summary

Public Law 2011, chapter 538 does the following.

1. It removes the authority of the Board to adopt rules necessary for the conduct of the Department's business and gives the Board authority to adopt rules necessary for the conduct of only the Board's business.
2. It removes the requirement that the Commissioner provide written notice and opportunity for a hearing prior to recommending that the Board modify or take corrective action on a license. It does not change the requirement that the board provide written notice and opportunity for a hearing prior to modifying or taking correction action on a license.
3. It clarifies that a license or permit amendment, revision or surrender is considered an application that is subject to a decision by the department.
4. It provides that administrative consent agreements may be enforced by the department or the Attorney General.
5. It provides that a proposed consent agreement and notice of the proposed consent agreement must be posted on the department's website.
6. It provides that if an administrative consent agreement is violated the Attorney General or the department may institute injunction proceedings.
7. It changes a NRPA exemption so that expansion of an existing residential or commercial "structure" that meets certain criteria would not require a NRPA permit.

Joint Standing Committee on Environment and Natural Resources

- 8. It amends standards and application requirements to allow an agricultural pond to be constructed adjacent to a river, stream or brook.
- 9. It repeals a provision in law that requires adopted rules relating to oil storage facilities and the protection of groundwater to be submitted for review to the Natural Resources Committee.
- 10. It changes the term of an air emission license from 5 years to 10 years, with these exceptions: (A) A license for an air contaminant source subject to 40 CFR, Part 70 - term of 5 years; and (B) A license issued pursuant to the carbon dioxide cap-and-trade program for carbon dioxide budget units - no term.
- 11. It makes rules implementing the wellhead protection laws major substantive rules.
- 12. It authorizes the Commissioner of Environmental Protection to adopt initial routine technical rules allowing for the reconstruction of an existing structure in a frontal dune if certain criteria are met. Any amendments to those rules are major substantive rules adopted by the Board of Environmental Protection.

LD 1763 An Act To Reduce Open Burning in Neighborhoods

**MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COURTNEY	ONTP MAJ OTP-AM MIN	

Under current law, open burning of leaves, brush, deadwood and tree cuttings that are accrued from normal property maintenance by the landowner or lessee of the land is allowed with a permit, unless it is prohibited by municipal ordinance. This bill extends that authorization for such open burning to a commercial business that removes those items from residential properties to burn at the business's primary business location.

LD 1768 An Act To Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System

**PUBLIC 546
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNAPP	OTP-AM	H-771

This bill revises the Department of Environmental Protection's annual waste discharge fee system. It eliminates the base fee, the fee for quantities of pollutants actually discharged or licensed to be discharged, the annualized license renewal service fee, the initial dilution fee and the multiple discharge point fee. In place of these fees it establishes for existing licensees a fee based on the average of the licensee's 2009 and 2010 bill amounts or a fee based on the licensee's 2011 bill amount, depending on the discharge group. It establishes for new licensees an annual fee based on the median fee of all licensees within the new licensee's discharge group. It establishes that, if no discharge occurs for an entire year, the fee is reduced to 25% of the annual fee. It establishes that an annual fee may be modified by a percentage that is equivalent to the percentage of any change to the licensed discharge flow.

Committee Amendment "A" (H-771)

This amendment adds an emergency preamble and emergency clause to the bill.