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ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1194, L.D. 1668, Bill, "An Act To Implement Recommendations of the Department of Environmental Protection Regarding the State's Mercury-added Lamp Law"

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 38 MRSA §1672, sub-§1, ¶A-1 is enacted to read:

A-1. "Covered entity" means a person who at any one time presents for drop off at a collection location participating in a department-approved program for the recycling of mercury-added lamps under this subsection:

(1) Any number of compact fluorescent mercury-added lamps; or

(2) Ten or fewer mercury-added lamps that are not compact fluorescent mercury-added lamps.'

Amend the bill in section 2 in paragraph C in the first line (page 1, line 13 in L.D.) by striking out the following: "site" and inserting the following: 'site location'

Amend the bill in section 2 in paragraph C in the 3rd line (page 1, line 15 in L.D.) by striking out the following: "covered entities" and inserting the following: 'a covered entity'

Amend the bill by striking out all of section 4 and inserting the following:

'Sec. 4. 38 MRSA §1672, sub-§4, as amended by PL 2013, c. 315, §2, is further amended to read:

4. Manufacturer recycling programs for mercury-added lamps. Effective January 1, 2011, each Each manufacturer of mercury-added lamps sold or distributed for household use in the State for use by a covered entity on or after January 1, 2001 shall individually or collectively implement a department-approved program for the recycling of mercury-added lamps from households a covered entity.

A. The recycling program required under this subsection must include, but is not limited to:

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1 (1) Convenient collection locations located adequate to serve the needs of
2 covered entities in rural and urban areas throughout the State where residents a
3 covered entity can drop off their household mercury-added lamps without cost,
4 including but not limited to municipal collection sites locations and participating
5 retail establishments;. The program must include a method of determining the
6 adequate number and geographic distribution of collection locations based on
7 geographic information system modeling.

8 No later than January 1, 2020, the collection system implemented under the
9 program must provide at least 90% of the residents of the State with a permanent
10 collection location or a nonpermanent collection location available on a periodic
11 basis within 15 miles of their residence unless the commissioner determines that
12 this requirement is not practicable due to geographic constraints, in which case
13 the commissioner may approve an alternative collection system that includes a
14 geographic distribution of collection locations but that does not otherwise meet
15 this requirement.

16 Unless otherwise approved by the commissioner, the collection system
17 implemented under the program:

18 (a) Must provide at least 2 collection locations within a population center of
19 at least 30,000 residents and an additional collection location for each
20 additional 30,000 residents within the population center; and

21 (b) Must ensure that the collection locations required under division (a) are
22 located in a manner that provides residents of the population center with
23 convenient and reasonably equitable access to the collection locations;

24 (2) Handling and recycling equipment and practices in compliance with the
25 universal waste rules adopted pursuant to section 1319-O, subsection 1,
26 paragraph F, with subsection 6 if a crushing device is used and with all other
27 applicable requirements;

28 (3) Effective Provision of education and outreach efforts by a manufacturer to
29 promote the program, which must include, but are not limited to, strategies for
30 education of and outreach to covered entities in all areas of the State and ensuring
31 understanding of collection options by covered entities. The education and
32 outreach, including, but not limited to must, at a minimum, include posters,
33 window clings and point-of-purchase signs and other materials provided that are
34 made available to retail establishments collection locations without cost, that can
35 be prominently displayed and that will be easily visible to covered entities; and
36 outreach to the general public, including annual Internet-based media campaigns
37 and print and radio media campaigns conducted in rural and urban areas in the
38 State; and

39 (4) An annual report to the department on the number of mercury-added lamps
40 recycled under the manufacturer's program, the estimated percentage of
41 mercury-added lamps available for recycling that were recycled under the
42 program and the methodology for estimating the number of mercury-added lamps
43 available for recycling, an evaluation of the effectiveness of the recycling

1 ~~program, recommendations for increasing the number of lamps recycled under~~
2 ~~the recycling program and an accounting of the costs associated with~~
3 ~~administering and implementing the recycling program.~~

4 (5) A goal of annually increasing the percentage of the residents of the State that
5 are aware of the requirement to recycle mercury-added lamps and the availability
6 of mercury-added lamp recycling at collection locations implemented under the
7 program;

8 (6) Provisions for routinely evaluating the effectiveness of the education and
9 outreach under subparagraph (3);

10 (7) Procedures for improving the education and outreach under subparagraph (3)
11 if the goal under subparagraph (5) is not achieved; and

12 (8) An annual report to the department, which must include, at a minimum:

13 (a) The number of mercury-added lamps recycled under the program;

14 (b) The estimated percentage of mercury-added lamps available for recycling
15 that were recycled under the program and, if the percentage of lamps
16 recycled in the prior calendar year did not represent an increase from the
17 percentage of lamps recycled in the calendar year prior to the prior calendar
18 year, recommendations for program modifications to increase the percentage
19 of lamps recycled under the program;

20 (c) The methodology for estimating the number of mercury-added lamps
21 available for recycling, which must include an assumption of the average
22 lifespan of a lamp by type of lamp and number of lamps sold by type in the
23 years on which the percentage under division (b) is calculated. Proprietary
24 information submitted to the department pursuant to this division that is
25 identified by the manufacturer as proprietary information is confidential and
26 must be handled by the department in the same manner as confidential
27 information is handled under section 1310-B;

28 (d) A description of the education and outreach under subparagraph (3) and
29 an evaluation of the effectiveness of that education and outreach, including a
30 description of the methods used to measure consumer awareness of the
31 requirement to recycle mercury-added lamps and, beginning with the annual
32 report for 2020, the results of an assessment of consumer awareness of the
33 program as completed by an independent 3rd-party assessor;

34 (e) The location of and contact information for each collection location
35 established under the program and an assessment of the convenience of the
36 collection system established under the program;

37 (f) An accounting of the costs associated with implementing and
38 administering the program; and

39 (g) Any recommendations for changes to the program to improve the
40 convenience of the collection system, consumer education or program
41 evaluation.

1 B. A manufacturer required to implement a recycling program under this subsection
2 shall submit its proposed recycling program for department review and approval.
3 The department shall solicit public comment on the proposed program before
4 approving or denying the program.

5 C. Beginning April 1, 2011, a manufacturer not in compliance with this section is
6 prohibited from offering any mercury-added lamp for final sale in the State or
7 distributing any mercury-added lamp in the State. A manufacturer not in compliance
8 with this section shall provide support to retailers to ensure the manufacturer's
9 mercury-added lamps are not offered for sale, sold at final sale or distributed in the
10 State.

11 D. Beginning April 1, 2011, a retailer may not offer for final sale a mercury-added
12 lamp produced by a manufacturer not in compliance with this section. The
13 department shall notify retailers of the manufacturers of mercury-added lamps not in
14 compliance with this section.

15 E. Beginning in 2013, and biennially thereafter, the department shall calculate the
16 percentage of mercury-added lamps recycled from ~~households covered entities~~ and
17 report to the joint standing committee of the Legislature having jurisdiction over
18 natural resources matters on any modifications to the manufacturer recycling
19 programs it intends to make to improve mercury-added lamp recycling rates and any
20 recommendations for statutory changes needed to facilitate mercury-added lamp
21 collection and recycling. The report may be included in the report required pursuant
22 to section 1772, subsection 1.

23 ~~F. The department may determine that a manufacturer's recycling program is in~~
24 ~~compliance with paragraph A, subparagraphs (1), (2) and (4) for the collection of~~
25 ~~compact fluorescent lamps from households if the manufacturer provides adequate~~
26 ~~financial support for the collection and recycling of such lamps to municipalities and~~
27 ~~a conservation program established pursuant to Title 35-A, section 10110 and~~
28 ~~implemented by the Efficiency Maine Trust.~~

29 G. A department-approved recycling program under this subsection that is
30 collectively implemented by manufacturers of mercury-added lamps must require the
31 payment of a flat program participation fee, in lieu of payment of any other fees or
32 costs associated with the program's operation, by a manufacturer participating in the
33 program that previously offered for sale or distributed in the State any type of
34 mercury-added lamps but that no longer offers for final sale or distributes in the State
35 any type of mercury-added lamps; except that a manufacturer that previously offered
36 for sale or distributed in the State only compact fluorescent mercury-added lamps but
37 that no longer offers for final sale or distributes in the State compact fluorescent
38 mercury-added lamps may be required to pay the flat program participation fee only
39 for a period beginning on the date the manufacturer stops offering for final sale or
40 distributing in the State compact fluorescent mercury-added lamps and ending 5 years
41 after that date, after which time the manufacturer must be allowed to continue to
42 participate in the program without being required to pay any fees or other costs
43 associated with the program's operation.

44 H. If, based on the information annually reported to the department under paragraph
45 A, subparagraph (8), the department determines that fewer than 25,000 total

1 mercury-added lamps were collected in the prior calendar year in the State under all
2 recycling programs implemented under this subsection and that the combined
3 mercury-added lamp recycling rate in the prior calendar year under all recycling
4 programs implemented under this subsection was 10% or greater, the department
5 shall develop a process for reducing the scope of the manufacturer recycling program
6 required under this subsection and for terminating all program requirements within
7 the 3-year period subsequent to that determination.

8 (1) In developing the program reduction and termination process under this
9 paragraph, the department shall invite the participation of manufacturers that
10 have implemented a recycling program under this section.

11 (2) The program reduction and termination process developed under this
12 paragraph must be based on the best available data regarding the collection of
13 mercury-added lamps in the State, including, but not limited to:

14 (a) The collection activity at each collection location;

15 (b) The estimated number of mercury-added lamps in the State still available
16 for collection; and

17 (c) The total number of mercury-added lamps collected in the prior program
18 years.

19 (3) Following completion of the development of the program reduction and
20 termination process under this paragraph, the department shall submit a report to
21 the joint standing committee of the Legislature having jurisdiction over
22 environment and natural resources matters regarding its findings and
23 recommendations for implementing that process, including any proposed
24 legislation. The report under this subparagraph may be included in the report
25 required under section 1772, subsection 1. After reviewing the report the
26 committee may report out a bill to implement the recommendations contained in
27 the report or to otherwise facilitate a reduction and termination of the
28 manufacturer recycling program required under this subsection.'

29 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
30 section number to read consecutively.

31 SUMMARY

32 This amendment, which is the majority report of the committee, amends the bill as
33 follows.

34 1. It amends the definition in the bill for the term "covered entity" to mean a person
35 who at any one time presents for drop off at a collection location participating in a
36 department-approved program for the recycling of mercury-added lamps any number of
37 compact fluorescent mercury-added lamps or 10 or fewer mercury-added lamps that are
38 not compact fluorescent mercury-added lamps.

39 2. It amends the collection system requirements under the bill to require that no later
40 than January 1, 2020, the collection system must provide at least 90% of residents with a

1 permanent collection location or nonpermanent collection location available on a periodic
2 basis within 15 miles of their residence.

3 3. It removes specific consumer awareness requirements in the bill and instead
4 requires that a mercury-lamp recycling program annually increase consumer awareness.

5 4. It removes from the bill the requirement for a mercury-lamp recycling program to
6 provide a minimum half-time employee dedicated to implementing the program.

7 5. It provides for payment of a flat program participation fee by manufacturers that
8 have stopped offering for sale or distributing in the State mercury-added lamps.

9 6. It establishes a threshold for development by the Department of Environmental
10 Protection, with input from manufacturers of mercury-added lamps, of a process to
11 reduce the scope of the manufacturer recycling program and to terminate all program
12 requirements. The department is required to submit a report to the joint standing
13 committee of the Legislature having jurisdiction over environment and natural resources
14 matters regarding its findings and recommendations for reducing and terminating the
15 program, and the committee is authorized to report out a bill to implement those
16 recommendations.

17 The amendment makes other technical corrections to the bill.

18 **FISCAL NOTE REQUIRED**

19 **(See attached)**