

## Office of Policy and Legal Analysis

Date: April 14, 2021  
To: Joint Standing Committee on Environment and Natural Resources  
From: Deirdre Schneider, Legislative Analyst  
Re: LD 940, An Act To Establish Appliance Energy and Water Standards

---

### Summary

This bill provides that, beginning January 1, 2023, a person may not sell or offer for sale in the State any of the following new products that were prohibited from sale in the State of California under its appliance efficiency regulations, as those regulations were in effect on January 1, 2021:

- Computers and computer monitors;
- Certain general service lamps;
- Commercial hot food holding cabinets;
- Plumbing fittings that are showerheads, lavatory faucets, kitchen faucets, public lavatory faucets, metering faucets, kitchen replacement aerators and lavatory replacement aerators;
- Plumbing fixtures that are water closets and urinals;
- Portable electric spas;
- Spray sprinkler bodies; and
- Water dispensers.

The Governor's Energy Office is required to enforce this prohibition, and fines for a violation of the prohibition are specified. The office is authorized to enter into a memorandum of understanding or other formalized agreement with the Efficiency Maine Trust for the provision of technical assistance by the trust to consumers and businesses regarding this prohibition. The office is also required to submit an annual report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters describing any recent or anticipated changes to the California appliance efficiency regulations and including recommendations as to whether, based on such changes or for other specified reasons, the state provision requires amendment.

### Proposed Amendment (Pluecker)

This amendment was offered by the DEP in its testimony and discussed at the public hearing. It also captures the proposed amendment offered in testimony by the Consumer Technology Association (CTA opposed the bill, but suggested if moving forward with the inclusion of computers and computer monitors, to include language that would provide the authority to stay consistent and keep pace with California's regulation). It replaces the bill, but maintains the substance of the bill. It specifically does the following:

- Changes the enforcement of the prohibition from the Governor's Energy Office to the Department of Environmental Protection;
- Allows the department, instead of the office to enter into a memorandum of understanding or other formalized agreement with the Efficiency Maine Trust for the provision of technical

assistance by the trust to consumers and businesses regarding this prohibition;

- Specifies that any appliance or product proposed to be regulated under this bill is exempt from the prohibitions proposed in the bill if such state regulation of the appliance or product is preempted by federal statute or regulation, so long as that federal preemption remains in effect; and
- Allows the department to incorporate by rule, recent changes to the California appliance efficiency regulations, instead of requiring the submission of an annual report to the legislature describing recent or anticipated changes to the California regulation and whether the law in Maine should be amended.

### **List of People that Submitted Written Testimony and/or Spoke at the Hearing**

**Proponents:** Representative Pluecker (Sponsor); Commission Loyzim, DEP; Anya Fetcher, Environment Maine; Jeremy McDiarmind/Sean Burke, Northeast Clean Energy Council; Jeff Marks, Acadia Center; Michael Stoddard, EMT; David Costello, NRCM; Marianne DiMascio, ASAP; David Gibson, Sierra Club; Beth Ahearn, Maine Conservation Voters;

**Opponents:** Katie Reilly, CTA; Philip Squair, NEMA; Matt Sigler, PMI

**Neither for nor against:** Roger Crouse, MRWA; Curtis Picard, Retail Association of Maine;

### **Other Amendments Offered in Testimony**

- **Phillip Squair, NEMA** – Remove the inclusion of general service lamps, including any associated definitions because regulation at the state level is preempted by federal law.
- **Matt Sigler, PMI** – The proposed effective sale date of the bill should be based on appliances and products that are manufactured on or after 1/1/23 – to allow for sell through of existing products.
- **David Gibson, Sierra Club** – Amend the bill to extend new efficiency requirements to water heating and home heating appliances. Require all fossil-fuel powered water heaters, furnaces, boilers and space heaters sold in the state to achieve 95% combustion efficiency when the bill takes effect on 1/1/23 and phase out the sale of these by 2030 at the latest.
- **Curtis Picard, Retail Assoc. of Maine** – The penalty for violations specified in the bill could result in potentially harsh penalties (No more than \$100 for each unit of a product sold or offered for sale). Some products included in the bill cost less than \$100 and in higher volumes – suggests amending to establish a more consistent penalty and perhaps delete the reference to each unit of product sold or offered for sale.

### **Fiscal Impact**

- No yet determined

## Proposed Amendment – Representative Pluecker

Committee: ENR

Drafter: DS

File name: G:\COMMITTEES\ENR\Bill amendments\130th 1st\143102.docx

LR (item)#: 143102

New Title?: N

Add Emergency?: N

Date: April 8, 2021

**Proposed Amendment** (Representative Pluecker) to LD 940, An Act To Establish Appliance Energy and Water Standards

**Amend the bill by striking everything after the enacting clause and before the summary and replacing with the following:**

**Sec. 1. 38 MRSA §1612** is enacted to read:

### **§1612. Appliance and product efficiency standards**

**1. Sale prohibition; appliances and products.** The following provisions apply to the sale or offering for sale in the State of certain new appliances and products.

A. Except as provided pursuant to subsection 2 or 3, beginning January 1, 2023, a person may not sell or offer for sale in the State any of the following appliances and products that are prohibited from sale in the State of California pursuant to the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 4, as those regulations were in effect on January 1, 2021 and as amended on December 9, 2020:

- (1) Computers and computer monitors;
- (2) General service lamps;
- (3) Commercial hot food holding cabinets;
- (4) Plumbing fittings that are showerheads, lavatory faucets, kitchen faucets, public lavatory faucets, metering faucets, kitchen replacement aerators and lavatory replacement aerators;
- (5) Plumbing fixtures that are water closets and urinals;
- (6) Portable electric spas;
- (7) Spray sprinkler bodies; and
- (8) Water dispensers.

For the purposes of this paragraph, the appliances and products listed in subparagraphs (1) to (8) have the same meanings as in the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 4, as those regulations were in effect on January 1, 2021, except that "general service lamps" means medium-base incandescent light bulbs that are: reflector lamps that are ER30, BR30, BR40 or ER40 lamps rated at 50 watts or less; reflector lamps that are BR30, BR40 or ER40 lamps rated at 65 watts; reflector lamps that are R20 lamps rated at 45 watts or less; B, BA, CA, F and G shape lamps as defined in American National Standards Institute standard C79.1-2002 with a lumen output greater than or equal to 200 and rated at 40 watts or less; A and C shape lamps as defined in American National Standards Institute standard C79.1-2002 with a lumen output greater than or equal to 200 and less than 310; shatter-resistant lamps; and 3-way lamps.

B. In determining a person's compliance with paragraph A, the department shall, to the greatest extent practicable and where consistent with the requirements of this subsection, use information contained in the modernized appliance efficiency database system established pursuant to the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 4, as those regulations were in effect on January 1, 2021.

C. A person who violates paragraph A commits a civil violation for which a fine of not more than \$100 may be adjudged for each unit of a product sold or offered for sale in violation of paragraph A.

**2. Exclusions; federal preemption.** This section does not apply to any appliances and products listed in subsection 1, paragraph A, subparagraphs (1) to (8) that are manufactured before January 1, 2022 or that are sold or offered for sale in the State in used condition. Any appliance or product regulated under this section is exempt from the prohibitions in this section and the rules adopted pursuant to this section if such state regulation of the appliance or product is preempted by federal statute or regulation, so long as that federal preemption remains in effect.

**3. Rules.** The department may adopt rules to amend the prohibition on the sale or offering for sale in the State of appliances or products described in subsection 1, paragraph A to incorporate any changes to the California Code of Regulation, Title 20, Division 2, chapter 4, Article 4 effective after January 1, 2021. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Memorandum of understanding regarding technical assistance to consumers and businesses.** The Department of Environmental Protection may enter into a memorandum of understanding or other formalized agreement with the Efficiency Maine Trust, established in the Maine Revised Statutes, Title 35-A, chapter 97, for the provision of technical assistance by the trust to consumers and businesses in the scope and application of the State's efficiency standards under Title 38, section 1612.

## SUMMARY

Like the bill, this amendment provides that, beginning January 1, 2023, a person may not sell or offer for sale in the State any of the following new products that were prohibited from sale in the State of California under its appliance efficiency regulations, as those regulations were in effect on January 1, 2021: computers and computer monitors; certain general service lamps; commercial hot food holding cabinets; plumbing fittings that are showerheads, lavatory faucets, kitchen faucets, public lavatory faucets, metering faucets, kitchen replacement aerators and lavatory replacement aerators; plumbing fixtures that are water closets and urinals; portable electric spas; spray sprinkler bodies; and water dispensers. The amendment changes the enforcement of the prohibition from the Governor's Energy Office to the Department of Environmental Protection. It allows the department, instead of the office to enter into a memorandum of understanding or other formalized agreement with the Efficiency Maine Trust for the provision of technical assistance by the trust to consumers and businesses regarding this prohibition.

Lastly, it allows the department to incorporate by rule, recent changes to the California appliance efficiency regulations.