

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in section 2 in subsection 6 in paragraph A in the first and 2nd lines (page 1, lines 39 and 40 in L.D.) by striking out the following: "used, released or generated" and inserting in its place the following: 'used or released'

Further amend the bill in section 2 in subsection 6 in paragraph B in the 3rd line (page 2, line 3 in L.D.) by striking out the following: "used, released or generated" and inserting in its place the following: 'used or released'

Further amend the bill in section 2 in subsection 6 in paragraph B in the last line (page 2, line 5 in L.D.) by striking out the following: "used, released or generated" and inserting in its place the following: 'used or released'

Further amend the bill in section 2 in subsection 6 by inserting after paragraph B the following:

'C. The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.'

Further amend the bill by inserting after section 2 the following:

**'Sec. 3. 38 MRSA §1310-B, sub-§2,** as amended by PL 2003, c. 661, §1 and c. 689, Pt. B, §6, is further amended to read:

**2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans.** Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B or, information relating to electronic devices submitted to the department under section 1609, subsection 6, paragraph B or information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to ~~insure~~ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret,or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the decision to the submitter and the person requesting the designated information. A person aggrieved by a

decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection must be confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.'

### **SUMMARY**

This amendment removes the requirement in the bill that a mercury reduction plan contain information related to the mercury generated by an emission source. The amendment also provides that the Department of Environmental Protection may keep information contained in a mercury reduction plan confidential if the information is a trade secret or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

### **FISCAL NOTE REQUIRED**

**(See attached)**