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Date: (Filing No. S- )

**JUDICIARY**

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**STATE OF MAINE  
SENATE  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 87, L.D. 281, Bill, “An Act To Create a 5-year Statute of Limitations for Environmental Violations”

Amend the bill by striking out the title and substituting the following:

**'An Act To Create a 6-year Statute of Limitations for Environmental Violations'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 38 MRSA §347-A, sub-§8,** as enacted by PL 2007, c. 337, §1, is repealed.

**Sec. 2. 38 MRSA §347-A, sub-§9** is enacted to read:

**9. Limitations on enforcement actions.** This subsection applies to enforcement actions for civil penalties.

**A. An enforcement action must be commenced by the commissioner or the Attorney General within 6 years of the following, whichever occurs latest:**

- (1) The discovery by the commissioner or the Attorney General of an act or omission giving rise to a violation;**
- (2) The identification by the commissioner or the Attorney General of the person responsible for the violation; and**
- (3) The last day of an ongoing violation.**

**B. For purposes of this subsection, an enforcement action is commenced when any of the following occurs:**

- (1) The commissioner proposes an administrative consent agreement in writing to the violator pursuant to subsection 4;**
- (2) The commissioner schedules an enforcement hearing on the alleged violation pursuant to subsection 2;**

**COMMITTEE AMENDMENT**

1 (3) The commissioner, with the prior approval of the Attorney General, files a  
 2 complaint in District Court pursuant to section 342, subsection 7 and the Maine  
 3 Rules of Civil Procedure, Rule 3; and

4 (4) The Attorney General files a complaint in District Court or Superior Court.

5 C. The commencement of an enforcement action by any of the means set forth in  
 6 paragraph B tolls the running of the 6-year limitation period for the purpose of  
 7 bringing any other action pursuant to subsection 1, paragraph A.'

8 **SUMMARY**

9 This amendment is the minority report of the Joint Standing Committee on Judiciary.  
 10 This amendment replaces the bill, which proposes a 5-year statute of limitations for  
 11 environmental violations.

12 This amendment establishes a 6-year statute of limitations for actions for civil  
 13 penalties for violations of laws administered by the Department of Environmental  
 14 Protection. An action must be commenced within 6 years of when the Commissioner of  
 15 Environmental Protection or the Attorney General discovers the act or omission giving  
 16 rise to the violation or identifies the party responsible for the violation, or of the last day  
 17 of a continuing violation, whichever occurs latest.

18 This amendment specifies that an enforcement action is commenced when any of the  
 19 following occurs:

- 20 1. The commissioner proposes an administrative consent agreement in writing to the
- 21 violator;
- 22 2. The commissioner schedules an enforcement hearing on the alleged violation;
- 23 3. The commissioner, with the prior approval of the Attorney General, files a
- 24 complaint in District Court; and
- 25 4. The Attorney General files a complaint in District Court or Superior Court.

26 The amendment includes language to ensure that the effect of commencing an action  
 27 is to toll the statute of limitations.

28 **FISCAL NOTE REQUIRED**

29  
 30 **(See attached)**  
 31