

OPPOSE

LD 281 – An Act to Create a 5-Year Statute of Limitations for Environmental Violations

Sponsor: Sen. Snowe-Mello of Androscoggin

Co-Sponsors: Senator COLLINS of York, HASTINGS of Oxford, MASON of Androscoggin, McCORMICK of Kennebec, and SAVIELLO of Franklin; and Representatives FITTS of Pittsfield and WINSOR of Norway

Summary: The bill requires enforcement actions for violations of environmental laws to be brought by the Department of Environmental Protection or the Attorney General within 5 years of the date of violation.

Explanation: This bill would weaken environmental enforcement in Maine, potentially allowing some violators to escape consequences for polluting Maine's environment, including those whose violations, such as buried toxic waste, might not come to light for a number of years. The bill also could have the counterproductive effect of increasing the number of compliance issues that are forced into litigation, because of the arbitrary deadline for action. LD 281 should be defeated for the same reasons that the Legislature rejected similar bills in 2005 and 2007.

An arbitrary five-year statute of limitations would impede both enforcement action and negotiated settlements, thereby undermining the State's ability to protect Maine's environment. Each year, Maine's Department of Environmental Protection documents hundreds of large and small violations of laws and regulations within its jurisdiction. Under current practice, the Department works with regulated entities to reach agreement on a resolution of the problem. Negotiations and final resolution take time. Typically, only the most uncooperative and/or egregious of violators face an enforcement action, and often these will cover a number of violations over a long time period. An arbitrary deadline, however, might force the State to abandon negotiation and take more matters to court. With more time before reaching a deadline to go to court, litigation is frequently avoided.

LD 281 states that a five-year clock would begin on the "date of violation," but this requirement would trigger confusion and multiple interpretations. The precise date of some violations is known only to the violator – as would be the case for a company that buried toxic waste. This bill could let violators in such cases escape accountability, even if ground water was polluted and public health was threatened. The bill also might shift environmental clean-up costs to taxpayers, if five years have passed before the "date of violation."

NRCM opposes LD 281 because it would impede legitimate enforcement of vital laws that protect Maine's air, land, and water and the public health of Maine people.

Oppose LD 281.