

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 629

H. P. 454

House of Representatives, February 7, 1967

Referred to Committee on Natural Resources. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mrs. Cornell of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Provide for the Conservation of Clean Air.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 22, c. 565, additional. Title 22 of the Revised Statutes is amended by adding a new chapter 565, to read as follows:

CHAPTER 565

CLEAN AIR

§ 2551. Purpose

It is the general intent and purpose of this chapter to seek to achieve or maintain, or both, a reasonable degree of air purity that the least possible injury be done to human, plant or animal life and to property and consistent with the economic and industrial well-being of the State by the creation of an Air Conservation Board to perform the adjudicatory functions provided for by this chapter and by granting to the Department of Health and Welfare powers with respect to technical assistance and cooperation with other groups in the field of air pollution.

§ 2552. Definitions

The following terms as used in this chapter shall, unless the context otherwise requires, have the following meanings:

1. Air contaminant. "Air contaminant" is dust, fumes, gas, mist, smoke or vapor or any combination thereof.

2. Air contaminant source. "Air contaminant source" is any and all sources, either singly or in combination of emission of air contaminants, whether privately or publicly owned or operated.

3. Air pollution. "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life and property, so as to constitute a nuisance.

4. Conservation Board. "Conservation Board" is the Air Conservation Board of the State of Maine.

5. Person. "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, municipality or any other legal entity, or their legal representative, agent or assigns.

§ 2553. Air Conservation Board

There is created an administrative board to be known as the Air Conservation Board of the State of Maine.

The powers and duties of the Air Conservation Board shall be vested in a 6-member board. The Commissioner of Health and Welfare shall serve as an ex officio member of said Board. The remaining 5 members shall be appointed by the Governor, with the advice and consent of the Council, one of whom shall be a qualified graduate engineer registered in Maine, one shall represent the manufacturing interests of the State, 2 shall represent the general public and one shall represent the recreation industry of the State. The appointed members' terms of office shall be 4 years, except that the terms of those first appointed shall expire as follows: One at the end of one year after date of appointment, one at the end of 2 years after date of appointment, one at the end of 3 years after date of appointment and 2 at the end of 4 years after the date of appointment as designated by the Governor at the time of appointment. The terms of all members shall continue until their respective successors have been duly appointed and qualified. If a vacancy occurs in the appointed membership, the Governor shall appoint a member for the remaining portion of the unexpired term created by the vacancy. The Governor may remove any appointed member for cause. The ex officio member of the board shall serve without additional compensation. Other members of the board shall be paid mileage and a per diem of \$20 for each and every day, or part of a day, in actual attendance at any meeting or hearing of the board.

The board shall hold at least 4 regular meetings each calendar year at a place and time to be fixed by the board. The board shall select at its first meeting following the effective date of this chapter, one of its members to serve as chairman and another of its members to serve as vice-chairman. At the first regular meeting in each calendar year thereafter, the chairman and vice-chairman for the ensuing year shall be elected. The Commissioner of Health and Welfare shall appoint from the staff of the Department of Health and Welfare a qualified sanitary engineer registered in Maine as technical secretary of the board. He shall receive no additional compensation for such services and during the

interim between meetings of the board he shall handle such correspondence, make or arrange for such investigations and surveys and obtain, assemble or prepare such reports and data as the board may direct and authorize. Special meetings may be called by the chairman or by 2 members of the board by delivery of written notice at the office of each member of the board. Four members of the board shall constitute a quorum.

§ 2554. Powers and duties

1. Powers and duties of the board. The duty and power to administer and carry out the adjudicatory provisions of this chapter hereinafter set forth in this section is vested in the Air Conservation Board and such board is empowered to:

A. Make investigations, consider complaints and hold hearings.

B. Enter such order or determination as may be necessary to effectuate the purposes of this chapter. If the board shall find that the condition of air pollution exists, as that term is defined, such order may require the taking of such action as is indicated by the circumstances to cause the abatement of such condition.

C. Adopt and promulgate reasonable rules and regulations consistent with the general intent and purposes of this chapter declared in section 2551 and necessary to carry out this chapter. All rules and regulations shall be adopted and promulgated in accordance with the statutes of this State concerning the establishment and promulgation of rules and regulations.

D. Bring appropriate action to enforce its final orders or determinations. Such action shall be brought in the name of the Air Conservation Board of the State of Maine.

2. Powers and duties of department. The duty and power to assist and cooperate with other groups interested in and affected by air pollution is vested in the Department of Health and Welfare and such department is empowered to:

A. Advise, consult and cooperate with other agencies of the State, towns, cities and counties, industries, other states and the Federal Government, and with affected groups in the prevention and control of new and existing air contamination sources within the State.

B. Encourage and conduct studies, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement.

C. Collect and disseminate information relating to air pollution, its prevention and control.

D. Encourage voluntary cooperation by persons, towns, cities and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within the State.

E. Encourage authorized air pollution agencies of towns, cities and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

F. Provide technical assistance to towns, cities or counties requesting same for the furtherance of air conservation.

G. Represent the State of Maine in any and all matters pertaining to plans, procedures or negotiations for interstate compacts in relation to the control of air pollution.

H. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of this chapter.

I. Enter at all reasonable times in or upon any private or public property, except private residences, for the purpose of inspecting and investigating conditions relating to the pollution of the air of this State.

J. Budget and receive duly appropriated moneys for expenditures to carry out this chapter.

K. Assist the board in employing, subject to the Personnel Law, and prescribing the powers and duties of such employees and obtaining the services of consultants on a contractual basis or otherwise as may be necessary to carry out this chapter. Technical services shall be performed insofar as practicable by personnel of the Department of Health and Welfare and by other state departments, agencies and offices.

§ 2555. Jurisdiction

The discharge into the outdoor atmosphere of air contaminants so as to cause air pollution and create a public nuisance is contrary to the public policy of the State of Maine and this chapter.

The jurisdiction of the board to receive and entertain complaints shall be limited to complaints concerning air contaminant sources located in areas in this State where no local air pollution law or regulation consistent with this chapter is in effect or where, after a hearing, the board determines the local applicable air pollution law or regulation is not being enforced adequately.

§ 2556. Hearings

The Air Conservation Board may hold a hearing with respect to any suspected violation of this chapter upon its own motion, upon complaint filed with the board by any person, and upon complaint filed with the board by the appropriate officer of any town, city or county or of the Department of Health and Welfare.

Notice of hearing, the conduct of such hearing and appeal from any order or decision of the board shall be in accordance with the Administrative Code.

§ 2557. Obstruction

It shall be unlawful to refuse to comply with any rule, regulation or order of the commission or to in any manner hinder, obstruct, delay, resist, prevent or in any way interfere or attempt to interfere with the board or the Department of Health and Welfare and its personnel in the performance of any duty hereunder, or refuse to permit such personnel to perform their duty by refusing them, after proper identification or presentation of a written order of the board, entrance at reasonable hours to any premises.

§ 2558. Ordinances

Nothing in this chapter shall prevent towns, cities or counties from enacting ordinances with respect to air pollution which will not conflict with this chapter and which are designed to effectuate the general intent and purpose expressed in this chapter.

§ 2559. Variances

The board may grant specific variances from any requirement to specific persons or class of persons or specific air contamination sources, upon conditions necessary to protect the public health and welfare, if it finds strict compliance is inappropriate because of conditions beyond the control of the persons involved, or because of special circumstances which would render strict compliance unreasonable, burdensome or impractical, or would result in substantial curtailment or closing down of a plant or operation or because no alternative facility or method is available. Such variances may be limited in time.

In considering variances, the board shall weigh all equities involved and the advantages or disadvantages to the residents and the activity.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Health and Welfare the sum of \$25,000 for the fiscal year ending June 30, 1968 and the sum of \$25,000 for the fiscal year ending June 30, 1969 to carry out the purposes of this Act. The breakdown shall be as follows:

	1967-68	1968-69
HEALTH AND WELFARE, DEPARTMENT OF		
Personal Services	(3) \$16,000	(3) \$17,000
All Other	9,000	8,000
	<hr/> \$25,000	<hr/> \$25,000