

MAINE STATE LEGISLATURE

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NEW DRAFT OF: H. P. 704, L. D. 904

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1475

H. P. 1153

House of Representatives, April 25, 1969

Reported by Mr. Snow from Committee on Natural Resources. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Prevent the Pollution of the Waters of China Lake.

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

Sec. 1. Findings and intent. The Legislature finds and declares that China Lake, in the County of Kennebec, exceeds 10 acres in area and is a great pond, the waters of which, and the lands beneath said waters, are held by the State in trust for all; that such waters have been classified by the Legislature as B-1, and are intended thereby to be maintained in such a manner as to be suitable for recreational purposes, including swimming, and for potable water supplies after adequate treatment.

The Legislature further finds that said waters constitute a valuable natural recreational resource of the State, thereby aiding the economy of the State and the spiritual well-being of the citizens of and visitors to this State who enjoy the recreation such waters provide; and that such waters constitute the sole source of public water supply to the Kennebec Water District, which district serves the 5 municipalities of Benton, Fairfield, North Vassalboro, Waterville and Winslow.

The Legislature further finds that land in the China Lake watershed is being increasingly developed for residential and recreational use; that the principal means of waste disposal employed by residents within the watershed is the septic tank; that the drainage from large numbers of septic tanks will, unless adequately controlled, permeate the soil of the watershed, enter the waters of China Lake and accelerate the eutrophication process therein, thus depreciating the value of such waters as a recreational resource and necessitating costly expenditures to treat such waters before they are fit for their present use as a public water supply.

The Legislature intends by the enactment of this legislation to regulate waste disposal within the China Lake watershed to the end that the classification of the waters of China Lake may be maintained and their use as a recreational facility and source of public water supply may be preserved.

Sec. 2. Trespass. All persons are forbidden to trespass on the lands owned by the Kennebec Water District bordering on the waters of China Lake. Notices that the lands are so taken and held shall be posted in conspicuous places on said lands and along the shore of said lake abutting thereon, and any person trespassing on said lands shall be liable to a fine, payable to the State, of not more than \$20 for each offense.

Sec. 3. Use. No person, firm, corporation or other legal entity shall use or occupy any structure upon or near the shores of China Lake or any of its direct tributaries in the County of Kennebec or upon any of the islands of said lake, for such purposes or in such manner that the sewage or drainage therefrom shall either enter the waters of said lake or any of its direct tributaries.

Sec. 4. Permits. Notwithstanding any other provision of law, or administrative regulation, including the State Plumbing Code, no person, firm, corporation or other legal entity shall install a septic tank, or a subsurface filter bed, absorption trench or leaching field intended to receive effluent from a septic tank or any other type of sewage disposal system, within 500 feet of the high water mark of the shore of China Lake without first obtaining such permits therefor as may be required by the appropriate municipal officials, and applying to the Kennebec Water District, in such forms as the district may prescribe, and obtaining from the district a permit for such installation and construction; or without an order issued by the Division of Sanitary Engineering, Department of Health and Welfare, in the manner herein provided.

A. District permit; procedure. Upon receipt of an application under this section for an installation permit, the district shall examine the proposed location and conduct such tests as may in its judgment be necessary to determine the suitability of the proposed installation and location for septic tank waste disposal in a manner which will maintain the classification of the waters of China Lake and preserve their use as a recreational facility and source of public water supply. If the district finds that the proposed installation and location are so suitable, it shall issue a permit accordingly. If the district finds that the proposed location or installation is unsuitable, it shall refuse to issue such a permit, and shall so notify the applicant in writing together with a written statement of the reasons for such refusal and the steps required to be taken before the installation or the location will qualify for issuance of a permit.

B. Division of Sanitary Engineering permit; procedure. Refusal by the municipal officials or by the district to issue a permit under this section shall oust such officials and the district of further jurisdiction with respect to issuance of a permit and the party to whom such refusal is directed shall then apply to the Division of Sanitary Engineering, Department of Health

and Welfare, in such form as the division may prescribe, for a permit for such installation and location. Upon receipt of such application, the division shall examine the proposed location and conduct such tests as may in its judgment be necessary to determine the suitability of the proposed installation and location for septic tank waste disposal in a manner which will maintain the classification of the waters of China Lake and preserve their use as a recreational facility and source of public water supply. After such examination and testing, the division shall make findings of fact and issue its order denying a permit or granting a permit upon such terms and conditions as in its judgment will provide for the maintenance of the classification of the waters of China Lake and their preservation as a recreational facility and public water supply.

Sec. 5. Orders, rules and regulations. The division shall have authority to make reasonable regulations with respect to the installation of septic tanks and subsurface filter beds, absorption trenches and leaching fields intended to receive effluent from septic tanks, applicable to installations of the same within 500 feet of the high water mark of the shores of China Lake. Any such regulations shall be published at the expense of the Kennebec Water District in a daily newspaper published in the city of Waterville and a daily newspaper published in the city of Augusta and copies of said regulations shall be posted in at least 3 public and conspicuous places in each town in which said regulation is to take effect, and an affidavit of such publication and of the posting of said notice, executed by some official of the division and filed in the office of the district, shall be conclusive evidence of compliance with such requirements. Orders issued by the division under section 4 shall be sent by certified mail, return receipt requested, to the party affected or shall be served upon such party personally by a member of the division. In the event that any regulation issued by the division under this section requires a change in any method of waste disposal which was in existence on the effective date of this Act and prior to that date was in conformity to existing laws or regulations, no action shall be maintained for violation of such regulation unless and until the district shall have offered to bring, at its own expense, such method into compliance with the most recent regulation.

Sec. 6. Judicial review. Any person aggrieved by an order or regulation of the division issued under this Act may appeal therefrom to the Superior Court. Notice of the appeal shall be ordered by the court and the appeal shall be heard without a jury, with the rights provided by law in other civil actions so heard. The court shall receive in evidence a copy of the findings of fact and of the order of the division and such other evidence as it deems material. The court shall have jurisdiction to affirm or nullify the order of the division, or to remand the proceedings to the division upon such terms as justice may require.

Sec. 7. Enforcement. The Kennebec Water District or the Division of Sanitary Engineering, Department of Health and Welfare, may apply to the Superior Court for appropriate civil relief to enjoin or restrain any violation of this Act.