

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
104TH LEGISLATURE

SENATE AMENDMENT "A" to H.P. 1270, L.D. 1598, Bill, "AN ACT Providing for the Conservation and Rehabilitation of Land Affected in Connection With Mining."

Amend said Bill in that part designated "§ 2203" by striking out all of the last 2 underlined sentences.

Further amend said Bill in that part designated "§ 2206" by striking out in the last line (same in L.D.) of subsection 1 the underlined figures and word "2212, subsection 4" and inserting in place thereof the underlined figure '2214'

Further amend said Bill in that part designated "§ 2209" by striking out in the last line (same in L.D.) the underlined figures and word "2206, subsection 1" and inserting in place thereof the underlined figure '2214'

Further amend said Bill by striking out all of sections 2212 and 2213 (same in L.D.) and inserting in place thereof the following:  
'§ 2212. Violations; general procedures

Whenever it appears to the commission after investigation that there is a violation of this chapter or of rules and regulations hereunder, it shall, after 30 days' written notice to the alleged violator, schedule a hearing thereon and shall notify the alleged violator of the date, time and place of such hearing and shall specify the act done or omitted to be done which is claimed to be a violation.

The hearing shall be conducted by the director or by a commission hearing examiner, who shall have power to administer oaths and affirmations to witnesses, and subpoena witnesses, books and documents material or relative to the subject matter of the hearing. If any person served with such subpoena claims, at or before the hearing, that the production by him of any books or documents may tend to disclose processes or production techniques unique to such person, which disclosure may tend to affect adversely the competitive position of such person, the information from such books, records or other data shall be disclosed at a nonpublic portion of the hearing, and the record thereof shall be confidential.

However, such information may be used by the commission in compiling and publishing analyses or summaries relating to the general condition of the mining industry, provided that such analyses or summaries do not identify directly or indirectly any owner or operator or reveal any information otherwise confidential under this section.

If any person refuses to obey a subpoena issued by the commission under this section, the commission may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof.

At the hearing the alleged violator may appear and answer the allegations of violation, and present such evidence as may be pertinent and relevant to the alleged violation. A complete written transcript shall be made of all hearings held pursuant to this chapter.

After consideration of the evidence and argument, or in the event of the failure of the alleged violator to appear on the date set for hearing, the person conducting the hearing shall, as soon thereafter as practicable, make findings of fact and, if he finds that a violation exists, shall issue an order aimed at ending the violation. Such an order shall be deemed an order of the commission for purposes of appeal under section 2214.

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§ 2213. Violations; emergency procedures

Whenever the director shall find that a violation of this chapter exists creating a substantial and immediate danger to human health or to property, he may order the person or persons causing such conditions to immediately discontinue the alleged violation. Service of a copy of the director's findings and order issued under this section shall be made by the sheriff or some deputy within the county where the person against whom such order runs maintains the operation affected by such order.

The person to whom such order is directed shall comply therewith immediately. Such order may not be appealed to the Superior Court in the manner provided by section 2214, but such person may apply to the director for a hearing on such order, which hearing shall be held within 48 hours after receipt of application therefor, and shall be conducted in the same manner as are hearings under section 2212. Within 7 days after such hearing the director shall make findings of fact and continue, to revoke or modify the order.'

Further amend said Bill by adding at the end the following:

'§2214. Appeal

Any person aggrieved by an order or decision of the commission may, within 30 days after notice of the filing of such order or decision, appeal therefrom to the Superior Court. Such appeal shall not, unless otherwise ordered by the court, operate as a stay of the commission action appealed from. Notice of the appeal shall be ordered by the court and the appeal shall be heard without a jury and in the manner and with the rights provided by law in other civil actions so heard. The court shall receive in evidence in any proceeding hereunder a transcript of the proceedings before the commission, a copy of the commission's order, and such other evidence as the court in its discretion shall deem necessary. The court shall have jurisdiction to enter a judgment affirming or nullifying the order or decision, or remanding the cause to the commission upon such terms as the court shall direct.

§ 2215. Enforcement of orders

If any order of the commission is not complied with within the time period specified, the commission may bring an action in its own name in the Superior Court of any county where the noncompliance with the order has occurred, seeking injunctive relief to prevent further noncompliance therewith.

§ 2216. Criminal penalties

Any person or operator who violates any provision of this chapter or any regulation adopted hereunder shall be punished by a fine of not more than \$100 for each day during which such violation has continued.'

Further amend said Bill in that part designated "§ 2202" by adding after subsection 2, a new subsection 3, to read as follows (same in L.D.):

'3. Exploration. "Exploration" means any geological, geochemical, geophysical or other prospecting, investigation, work or activity to determine the existence, nature, quality and quantity of product,

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by any surface or underground methods and with any equipment, tools, drills or machinery.'; and by renumbering subsections 3 to 10 to be subsections 4 to 11.

Further amend said Bill in that part designated "§ 2205" by striking out all of the last underlined sentence of subsection 5 (same in L.D.) and inserting in place thereof the following underlined sentence: 'No operator's bond or mining plan shall be required for exploration related thereto.'

Proposed by Senator BERRY of Cumberland.

Reproduced and distributed pursuant to Senate Rule No. 11A.

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