

MAINE STATE LEGISLATURE

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(EMERGENCY)
NEW DRAFT OF S. P. 602, L. D. 1773
FIRST SPECIAL SESSION

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1843

S. P. 661

In Senate, February 4, 1970

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

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
AND SEVENTY

AN ACT Providing for Moratorium on Construction of Certain Industries.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain petroleum refining and ore smelting industries have announced their intent to locate in this State; and

Whereas, such industries, unless properly regulated, may have catastrophic and irreparable effects upon the environment of the State and the public health, welfare and safety; and

Whereas, it is extremely difficult at this special session to enact adequate regulatory legislation to cope with the environmental threats posed by such industries; and

Whereas, the following legislation is vitally necessary to preserve the environmental status quo until proper legislation can be drafted and enacted and proper appropriations made; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health, welfare and safety; now, therefore,

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

Sec. 1. R. S., T. 38, c. 3, sub-c. I, Art. 5, additional. Subchapter I of chapter 3 of Title 38 of the Revised Statutes is amended by adding a new Article 5 to read as follows:

Article 5. Construction of certain industries

§ 471. Findings and intent

The Legislature finds and declares that certain petroleum refining and ore smelting industries are looking to this State as a probable site for plant location; that such industries, unless properly regulated, possess the potential to degrade the environment of the State in a catastrophic and irreparable manner; that state and local controls over plant site location may be inadequate; and that the Environmental Improvement Commission is neither adequately organized, staffed or funded at present to deal with the environmental threats posed by the intrusion of such industries.

The Legislature further finds and declares that legislation to properly regulate such industries and minimize the environmental hazards which they pose is novel and difficult to draft; that many competing equities will need to be adjusted in such legislation; that the same cannot be coherently prepared for introduction and consideration at this time, but must await the regular session of the 105th Legislature; and that to find sources of revenue to appropriate for the adequate staffing and funding of the Environmental Improvement Commission will involve far-reaching decisions on financial priorities, which decisions should likewise await the regular session of the 105th Legislature.

The Legislature intends by the enactment of this article to exercise the police power of the State by prohibiting the establishment within this State of petroleum refining and ore smelting industries until 90 days after the recess of the next regular session of the Legislature in order to protect the environment, the natural resources and the public health, safety and welfare of the people of this State from the potentially catastrophic and irreparable adverse effects of such industries until the regular session of the 105th Legislature has had the opportunity to consider and enact legislation to provide the Environmental Improvement Commission with the powers, staff and funds sufficient to properly regulate such industries.

§ 472. Prohibitions; enforcement

No person, firm, corporation or other legal entity shall commence construction or operation within this State of any petroleum refining or ore smelting industry until March 31, 1971.

The Superior Court shall have jurisdiction to enjoin violations of this section upon civil action therefor brought by the Attorney General. In any such action the burden shall be on the defendant to prove that the construction or operation sought to be enjoined is other than that of a petroleum refining or ore smelting industry.

Sec. 2. Study. The Environmental Improvement Commission is authorized and directed to study the effect of petroleum refining and ore smelting industries upon the environment of this State and upon the public health, welfare and safety and to report its findings together with its recommendations for legislative action, including any necessary draft legislation to the next regular session of the Maine Legislature.

Sec. 3. Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$12,000 to the Environmental Improvement Commission to carry out the purposes of section 2 of this Act. The breakdown shall be as follows :

	1969-70
ENVIRONMENTAL IMPROVEMENT COMMISSION	
Personal Services (1)	\$ 2,000
All other	10,000
	\$12,000

Such appropriation shall not lapse but shall remain a continuing carrying account until July 1, 1971.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.