

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 987

S. P. 335

In Senate, February 24, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Bernard of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT Providing for Licensing of Open-pit Type Lagoons of Certain
Pollution Abatement Facilities.**

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

Whereas, certain so-called pollution abatement facilities have within their complexes, or intend to have within their proposed facilities, open-pit type holding or treatment lagoons; and

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

Whereas, there have been recorded events of catastrophic failures of these facilities; and

Whereas, the Environmental Improvement Commission has found it extremely difficult to enact adequate rules and regulatory actions to cope with the environmental threats posed by such facilities; and

Whereas, the following legislation is vitally necessary to preserve the environmental status quo and reinstall in the minds of the citizens of Maine the fact that the appointed officials of this State are fulfilling their obligations to improve and protect the environment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the fol-

lowing legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

R. S., T. 38, c. 3, sub-c. I, Art. 2-A, additional. Subchapter I of chapter 3 of Title 38 of the Revised Statutes is amended by adding a new Article 2-A to read as follows:

Article 2-A. Construction of Certain Facilities

§ 421. Open-pit type lagoons

The Legislature finds and declares that certain pollution abatement facilities using open-pit type lagoons, unless properly regulated, possess the potential to degrade the environment of the State in a catastrophic and irreparable manner and that existing state and local controls on planned and existing lagoon locations may not be adequate to deal with the environmental threats posed by nature.

§ 422. Pollution restricted

No person, firm, corporation, quasi-municipal corporation or municipality, or agency thereof, shall operate or cause to be operated any pollution abatement or treatment facilities in which all, part of the discharge, effluent or influent of the facilities are dumped, flowed, stored, held, treated or for any reason whatsoever caused to be contained in a lagoon thereof which shall evaporate or discharge into any stream, river, pond, lake, or other body of water or water course or drainage bed, leach bed or ground of any composition or any tidal waters, whether classified or unclassified, any waste, refuse or effluent from any source whatsoever, so as to constitute a potential source of pollution to said waters or ground which might flow, overflow or contaminate a public water supply. Therefore, said license from the commission shall specifically mention the requirements in detail of the proposed construction, or modification in existence, of the said lagoon or lagoons.

§ 423. Licenses

Licenses for establishments operated prior to August 8, 1953, under section 414, for any such discharge at its present general location, are repealed and the exemptions are repealed. All such licensees shall comply with this section upon renewal of their license application or within one year of the time this law takes effect, whichever comes first.

§ 424. Requirements of construction

Location of existing lagoons or proposed lagoons whose physical location renders them in a location so as to be elevated higher than an existing water supply or source of water rated by the commission as A, B-1 or B-2 shall be constructed or reconstructed so as to prevent acts of nature from causing catastrophic and irreparable damages upon the environment of the State and public health, welfare and safety of its citizens.

Said construction shall consist of a material so to cause the lagoon to be "lined" either with a fabric of man-made materials, concrete, cement, tar or any combination of related materials that in the judgment of the commission shall prevent the leakage of stored effluent from the lagoon. The retaining walls of the lagoon shall be so constructed as to withstand erosions from acts of nature. Walls of the lagoon shall extend above the normal operating levels so as to exclude any overflow that might result from excessive rain, flooding or other acts of nature.

Any drainage bed used in conjunction with a lagoon the drainage from which may flow down to a lower elevation into a source of drinking water used by a municipality, or any drainage bed or lagoon combination that has had a history of leakage into said drinking water shall have its operating license repealed until such conditions and requirements under this section are met.

§ 425. Gallon capacity

The commission shall determine the maximum number of gallons said lagoon can safely handle in its assigned operation. Any new additional amount of gallonage introduced above and beyond the rated capacity shall constitute a violation of this section. Said capacity shall be publicly announced at any public hearing held in conjunction with the applicant's request for a license.

§ 426. Right of the citizens

A petition of not less than 50 signatures may be filed with the commission for a public hearing to contest the assigned license should a doubt exist as to the licensee's ability to perform or there are violations, apparent or suspected, of the requirements of the license. The commission shall cause a public hearing to be held within 30 days.

§ 427. Penalties

Any person, corporation or other legal entity, who shall violate any part of this article, or who shall fail, neglect or refuse to obey any order of the commission lawfully issued pursuant to this article, shall be punished by a fine of not less than \$200 nor more than \$1,000 for each day of such violation, failure, neglect or refusal after the expiration of any time limit set by the commission to correct such requirements.

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

STATEMENT OF FACT

Whereas there has come to the attention of the Legislature several catastrophic accidents in the past few years relative to the content of this Act, and whereas no corrective actions have yet been taken, this Act will give the Environmental Improvement Commission regulatory powers to act now before further harm to the public health, safety and welfare of the citizens of Maine might occur.