

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 701

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S. P. 250

In Senate, February 8, 1973

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Cummings from Penobscot.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT to Clarify Tax Exemptions for Pollution Control Facilities.

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

Sec. 1. R. S., T. 26, § 656, sub-§ 1, ¶ E, repealed and replaced. Paragraph E of subsection 1 of section 656 of Title 36 of the Revised Statutes, as repealed and replaced by section 2 of chapter 524 of the public laws of 1971, and as amended, is repealed and the following enacted in place thereof:

E. Pollution control facilities.

(1) Water pollution control facilities certified as such by the Board of Environmental Protection. Water pollution control facilities shall include any equipment, machinery, installation, structure or system used or employed for the purpose of removing, disposing of or storing any water pollutants caused by industrial, commercial or domestic activity, including any materials for the construction, repair or maintenance thereof, except any such facility which constitutes a change in any manufacturing, industrial or commercial process or which otherwise prevents the production of pollutants but which by itself does not remove, alter, dispose of or store such pollutants once created; is used or employed to refine, process, handle, package or otherwise modify any usable, marketable or valuable byproduct produced by such a facility; is used or employed to disperse any pollutant, except heat; or is used or employed to dispose of any pollutant by any septic tank, drainage field, cesspool or other sub-surface disposal system.

The board shall not certify any facility otherwise eligible for certification under this subparagraph, if it appears that by reason of profits derived

from the operation of such facility, its costs will be recovered over its actual useful life, provided that no profits shall be deemed to arise from the use or reuse of any material recovered from such facility by the owner or operator thereof.

If a facility performs a function in addition to removing, disposing of or storing water pollutants, such facility shall be tax exempt only with respect to that portion of the cost thereof which is attributable to abating or controlling of water pollution. (2) Air pollution control facilities certified as such by the Board of Environmental Protection. Air pollution control facilities shall include any equipment, machinery, installation, structure or system used or employed for the purpose of removing, disposing of or storing any air pollutants caused by any industrial or commercial activity, including any materials for the construction, repair or maintenance thereof, except any such facility which constitutes a change in any manufacturing or industrial process or which otherwise prevents the production of pollutants but which by itself does not remove, dispose of or store such pollutants once created; which is used or employed to refine, process, handle, package or otherwise modify any usable, marketable or valuable by-product produced by such a facility; which is used or employed to disperse any pollutants, except heat; such as air conditioners, dust collectors, fans or similar devices installed, designed or constructed solely for the benefit of the person for whom installed or the personnel or employees of such person; or which is installed, designed or constructed for the purpose of controlling automobile exhaust emissions.

The board shall not certify any facility otherwise eligible for certification under this subparagraph if it appears that by reason of profits derived from the operation of such facility, its costs will be recovered over its actual useful life, provided that no profits shall be deemed to arise from the use or reuse of any material recovered from such facility by the owner or operator thereof.

If a facility performs a function in addition to removing, disposing of or storing air pollutants, it shall be tax exempt only with respect to that portion of the cost thereof which is attributable to abating or controlling of air pollutants.

Sec. 2. R. S., T. 36, § 1760, sub-§ 29, repealed and replaced. Subsection 29 of section 1760 of Title 36 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1969, and as amended, is repealed and the following enacted in place thereof:

29. Water pollution control facilities. Sale of any water pollution control facilities, certified as such by the Board of Environmental Protection. Water pollution control facilities shall include any equipment, machinery, installation, structure or system used or employed for the purpose of removing, disposing of or storing any water pollutants caused by industrial, commercial or domestic activity, including any materials for the construction, repair or maintenance thereof, except any such facility which constitutes a change in any manufacturing, industrial or commercial process or which otherwise pre-

vents the production of pollutants but which by itself does not remove, dispose of or store such pollutants once created; is used or employed to refine, process, handle, package or otherwise modify any usable, marketable or valuable by-product produced by such a facility; is used or employed to disperse any pollutant, except heat; or is used or employed to dispose of any pollutant by any septic tank, drainage field, cesspool or other subsurface disposal system.

The board shall not certify any facility otherwise eligible for certification under this subsection if it appears that by reason of profits derived from the operation of such facility, its costs will be recovered over its actual useful life, provided that no profits shall be deemed to arise from the use or reuse of any material recovered from such facility by the owner or operator thereof.

If a facility performs a function in addition to removing, disposing of or storing water pollutants, such facility shall be tax exempt only with respect to that portion of the cost thereof which is attributable to abating or controlling water pollution.

Sec. 3. R. S., T. 36, § 1760, sub-§ 30, repealed and replaced. Subsection 30 of section 1760 of Title 36 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1969, and as amended, is repealed and the following enacted in place thereof:

30. **Air pollution control facilities.** Sale of any air pollution control facilities certified as such by the Board of Environmental Protection. Air pollution control facilities shall include any equipment, machinery, installation, structure or system used or employed for the purpose of removing, disposing of or storing any air pollutants caused by any industrial or commercial activity, including any materials for the construction, repair or maintenance thereof, except any such facility which constitutes a change in any manufacturing or industrial process or which otherwise prevents the product of pollutants but which by itself does not remove, dispose of or store such pollutants once created; which is used or employed to refine, process, handle, package or otherwise modify any usable, marketable or valuable by-product produced by such a facility; which is used or employed to disperse any pollutants except heat; such as air conditioners, dust collectors, fans or similar devices installed, designed or constructed solely for the benefit of the person for whom installed or the personnel or employees of such person; or which is installed, designed or constructed for the purpose of controlling automobile exhaust emissions.

The board shall not certify any facility otherwise eligible for certification under this subsection if it appears that by reason of profits derived from the operation of such facility, its costs will be recovered over its actual useful life, provided that no profits shall be deemed to arise from the use or reuse of any material recovered from such facility by the owner or operator thereof.

If a facility performs a function in addition to removing, altering, disposing of or storing air pollutants, it shall be tax exempt only with respect to that portion of the cost thereof which is attributable to abating or controlling air pollutants.

## STATEMENT OF FACT

This legislation revises the present tax exempt status of pollution control facilities. The exemption is extended in some respects to cover other than purely industrial facilities. In addition, the provisions are changed to be consistent with the taxing policies of the U. S. Internal Revenue Service which provides rapid tax amortization of pollution control facilities.

The bill clarifies the fact that inplant processes changes were not intended to be tax exempt by existing legislation. The bill adds to the present tax exemptions by providing that no facility shall be tax exempt to the extent that it produces a profit for the taxpayer.

It is estimated that the revenue loss will not exceed \$20,000 per year.