

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1640

H. P. 1260

House of Representatives, March 26, 1973

Referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Rolde of York.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT Amending the Regulatory Power Relating to Plumbing.**

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

Sec. 1. R. S., T. 32, § 3301, sub-§ 5, repealed and replaced. Subsection 5 of section 3301 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

5. Plumbing. "Plumbing" means the pipes, tanks, faucets, valves and other fixtures or apparatus installed in a building, or any such fixtures or apparatus on the exterior of any building and within 8 feet of any portion of the exterior surface of such building, which fixtures or apparatus are used for the purpose of supplying and distributing water within such building and removing liquid and water carry waste from such building, and shall include the necessary water piping and water connections to all types of heating apparatus using water.

Sec. 2. R. S., T. 32, § 3301, sub-§ 6, additional. Section 3301 of Title 32 of the Revised Statutes, as amended by section 1 of chapter 363 of the public laws of 1971, is further amended by adding a new subsection 6 to read as follows:

6. Subsurface sewage disposal system. "Subsurface sewage disposal system" shall mean any system for disposing of wastes or waste waters on or beneath the surface of the earth including, but not limited to, holding ponds, surface spray systems, septic tanks, drainage fields, cesspools, wells, holding tanks, surface ditches or any other fixture, mechanism or apparatus outside a building used for such purposes, but shall not include any discharge or discharge system licensed under Title 38, section 414, or any discharge into a municipal or quasi-municipal sewer system.

**Sec. 3. R. S., T. 32, § 3351, amended.** Section 3351 of Title 32 of the Revised Statutes is amended to read as follows:

**§ 3351. Local ordinance or bylaws**

Any city or town may, by ordinance or bylaw, prescribe regulations for the materials, construction, alteration and inspection of all pipes, tanks, faucets, valves and other fixtures ~~by and through which waste or sewage is used and carried used for plumbing,~~ and for the materials and sizes of pipe which carry water to all plumbing fixtures, which regulations shall provide not less than the minimum requirements of the rules and regulations of the Department of Health and Welfare in relation to plumbing work ~~for the carrying of such waste and sewage and for the materials and sizes of pipe which carry water to all plumbing fixtures~~ and shall provide that such pipes, tanks, faucets, valves or other fixtures shall not be placed in any building in such city or town, ~~nor shall any septic tank or other system of private sewage disposal be installed to receive the drainage from such plumbing~~ except to repair leaks or replace an old fixture to be used for the same purpose, except after the issuing of a permit for the installation of such work, issued by the inspector of plumbing in such city or town in accordance with a written description or information on such application blanks as shall be approved and furnished to such cities or towns by the department.

**Sec 4. R. S., T. 38, c. 13, additional.** Title 38 of the Revised Statutes is amended by adding a new chapter 13 to read as follows:

**CHAPTER 13**

**SUBSURFACE SEWAGE DISPOSAL SYSTEMS**

**§ 1301. Subsurface sewage disposal system regulations**

The Environmental Protection Board shall promulgate regulations relating to the construction, alteration and inspection of subsurface sewage disposal systems as defined in Title 32, section 3301. Said regulations shall prescribe the minimum requirements for holding ponds, surface spray systems, tanks, drainage fields, cesspools, ditches, pipes or any other fixture, mechanism or apparatus which is used in connection with a subsurface sewage disposal system, so as to ensure the efficient disposal of waste waters in a manner consonant with public health, safety and welfare and environmental standards.

Any city or town may promulgate regulations relating to the construction, alteration and inspection of subsurface sewage disposal systems, which regulations shall not provide for standards less than those prescribed by the regulations of the Environmental Protection Board.

In any city or town which does not promulgate regulations, the regulations promulgated by the Environmental Protection Board shall have full force and effect.

Prior to the promulgation of the regulations required by this section, the regulations of the Department of Health and Welfare in effect on January 1, 1973, which relate to the subsurface sewage disposal systems shall be the

applicable regulations with respect to the minimum requirements for holding ponds, surface supply systems, tanks, drainage fields, cesspools, ditches, pipes or any other fixture, mechanism or apparatus which is used in connection with a subsurface sewage disposal system.

No subsurface sewage disposal system shall be constructed or altered, except to make ordinary repairs, without first obtaining a permit for such work from the inspector of subsurface sewage disposal systems of the city or town in which the work will be done.

Applications for permits shall be made upon an application form furnished to the cities and towns by the Department of Environmental Protection.

#### § 1302. Fees

Within 90 days from the effective date of this Act, the Environmental Protection Board shall promulgate a schedule of fees, the payment of which shall be necessary prior to the issuance of the permit required by section 1301.

Within 45 days after the effective date of this Act, the Environmental Protection Board shall publish a proposed schedule of fees and conduct a public hearing for the purpose of determining the adequacy and fairness of such proposed schedule of fees.

In no case shall any such fee to secure a permit required by section 1301 exceed \$50 and during the period prior to the promulgation of such schedule of fees the fees charged shall be in accordance with the fees set forth in Title 32, section 3352.

One-half of the amount of such fees shall be paid through the Department of Environmental Protection to the Treasurer of State to be maintained as a permanent fund for the use of the department in carrying out this chapter and  $\frac{1}{2}$  shall be paid to the city or town and used for carrying out this chapter.

The Environmental Protection Board may revise the schedule of fees from time to time after publishing notice of the proposed revision and conducting a public hearing thereon.

#### § 1303. Inspections

Permits for the installation of subsurface sewage disposal systems in the cities and towns shall be issued by a local inspector who shall be appointed or approved by the Commissioner of Environmental Protection.

Within 12 months from the effective date of this Act, the Commissioner of Environmental Protection shall appoint or approve in every city and town inspectors of subsurface sewage disposal systems. A person may be appointed or approved as inspector for more than one city or town.

Prior to such appointment, the inspectors of plumbing in every city and town appointed pursuant to Title 32, section 3353, shall also serve as inspector of subsurface sewage disposal systems.

Nothing in this section shall be construed to prevent the inspector of plumbing in a city or town from being appointed to serve collaterally as inspector of subsurface sewage disposal systems.

**§ 1304. Compensation; duties**

The compensation of said inspectors of subsurface sewage disposal systems shall be determined by the municipal officers, approved by the commissioner and paid from the treasury of the respective city or town. Such inspectors shall inspect all subsurface sewage disposal systems in their respective cities or towns for which permits are granted and shall report violations of any law, ordinance, bylaw, rule or regulation relative to subsurface sewage disposal systems in duplicate to the local health officer and the Commissioner of Environmental Protection. They shall perform such other appropriate duties as may be required. The approval of a subsurface sewage disposal system by anyone other than a person appointed pursuant to section 1303 shall not be in compliance with this chapter.

**§ 1305. Penalties**

Whoever violates any provision of this chapter shall be punished by a fine of not less than \$10 nor more than \$50 for each offense.

**Sec. 5. Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances or appropriations, transfers, revenues or other available funds in any account, or subdivision of an account which relates to functions of the Department of Health and Welfare which are herein being transferred to the Department of Environmental Protection, shall be transferred to the Department of Environmental Protection upon the recommendations of the Commissioner of Environmental Protection, the State Budget Officer and upon approval by the Governor and Executive Council.

**Sec. 6. Rules, regulations and procedures.** All regulations, state and local, currently in effect and operation relating to underground disposal referred to in this Act shall continue in effect unless in conflict with this Act, until rescinded, amended or changed according to law.

**STATEMENT OF FACT**

This bill redefines the authority of the Department of Health and Welfare and the Department of Environmental Protection relative to the installation of plumbing (i.e., fixtures and apparatus installed in the interior of a building) and subsurface sewage disposal systems (e.g., septic tanks and leach fields). At the present time the responsibility for regulation and enforcement of both plumbing and private sewage disposal systems lies solely with the Department of Health and Welfare.

Subsurface sewage disposal systems relate to the quality of our environment and, particularly, water quality. The amendments contained herein would give the responsibility for the regulation of subsurface sewage disposal systems to the Department of Environmental Protection. The amendments contained herein define the terms plumbing and subsurface sewage disposal system and allocate administrative and enforcement responsibilities to each of the respective departments. The bill does not enlarge the authority of the State Government in this field. It only reassigns responsibility for regulation and enforcement.