

# MAINE STATE LEGISLATURE

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New Draft of H. P. 729, L. D. 935

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1923

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H. P. 1495

House of Representatives, May 9, 1973

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

E. LOUISE LINCOLN, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT to Provide for Protection of the Air, Water and Other  
Natural Resources.**

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

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**

**PROTECTION OF AIR, WATER AND OTHER  
NATURAL RESOURCES**

§ 1261. Actions

The Attorney General, any group of 5 individuals, any municipality, partnership, corporation, association, organization, government agency or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the State, any political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity for the legal protection of the air, water, land and other natural resources from damage or destruction.

§ 1262. Procedure

1. Remitting. If administrative, licensing or other proceedings are required or available to determine the legality of the defendant's conduct, the court shall remit the parties to such proceedings. In so remitting, the court may grant temporary equitable relief where necessary for the protection of the air, water, land or other natural resources. In so remitting, the court may

retain jurisdiction of the action, unless otherwise provided by statute, pending completion of such proceedings, for the purposes of determining the adequacy and reasonableness of the administrative agency's action.

2. Standards. In granting relief provided by this section, the court shall apply the provisions of any law, regulation or ordinance for the protection of the air, water, land and other natural resources.

3. Limitations. No action may be brought pursuant to this chapter which challenges the findings and final decision of an administrative, licensing or other proceeding after 30 days following actual or constructive notice of such final decision.

4. Costs. Costs may be apportioned to the parties as the interests of justice require.

5. Notice. Whenever an action is brought pursuant to this chapter, a copy of the complaint shall be delivered to the Attorney General within 3 days of the filing of the complaint.

6. Security. If the court has reasonable grounds to doubt the plaintiff's ability to pay any costs which might be awarded against him under this chapter, the court may order the plaintiff to post a surety bond or deposit cash in an amount it deems proper.

No restraining order or preliminary injunction shall be issued except upon the giving of security by the plaintiff, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained, provided that for good cause shown and recited in the order, the court may waive the giving of security.

7. Plaintiffs. Plaintiffs in actions brought pursuant to this chapter must be Maine residents or property owners.

#### § 1263. Application

This chapter shall be supplementary to existing laws, regulations and ordinances, and shall be applicable only in those cases in which the plaintiffs seek to show violation of existing laws, regulations or ordinances for the protection of the air, water, land and other natural resources.