

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 765

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H. P. 619

House of Representatives, February 25, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Curran of Bangor.

Cosponsor: Mr. Doak of Rangeley.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT to Amend the Site Location of Development Statute.

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

Sec. 1. 38 MRSA § 482, sub-§ 2, as last amended by PL 1973, c. 625, § 276, is further amended to read:

2. Development which may substantially affect the environment. "Development which may substantially affect the environment," in this Article called "development," means any state, municipal, quasi-municipal, educational, charitable, commercial or industrial development, including subdivisions, but excluding state highways and state aid highways, ~~which requires a license from the board or~~ which occupies a land or water area in excess of 20 acres, or which contemplates drilling for or excavating natural resources, on land or under water where the area affected is in excess of 60,000 square feet, excluding borrow pits for sand, fill or gravel, regulated by the Department of Transportation and said pits of less than 5 acres, or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet.

Sec. 2. 38 MRSA § 482, sub-§ 6 is enacted to read:

6. Structure. A "structure" shall mean anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, walls, fences, roads, parking lots, billboards, signs, piers and floats.

**Sec. 3.** 38 MRSA § 483, as last amended by PL 1971, c. 613, § 4, is further amended by adding a new sentence before the first sentence to read:

No person shall construct or cause to be constructed or operate or cause to be operated or sell or offer for sale or cause to be sold or offered for sale any development which may substantially affect the environment without first having obtained approval from the Board of Environmental Protection pursuant to this subchapter.

**Sec. 4.** 38 MRSA § 484, 2nd ¶, as last amended by PL 1971, c. 618, § 12, is further amended to read:

At such hearing the board shall solicit and receive testimony to determine whether such development will in fact substantially affect the environment or pose a threat to the public's health, safety or general welfare, or affect the economic well-being of the citizens of the State of Maine.

#### STATEMENT OF FACT

Section 1. The Board of Environmental Protection issues licenses or permits for numerous activities. Many of these activities are relatively insignificant in terms of environmental degradation but are required to obtain approval under the Site Location of Development statute by virtue of the fact that an environmental license of the board is required. This requirement has frequently caused confusion and unnecessary hardship for citizens of the State of Maine. The strike-out portion of section 1 will eliminate this unnecessary and frequently superfluous requirement. The existing statute does not clearly define drilling and excavation of natural resources. It requires projects no matter how small to obtain Site Location of Development approval. The suggested addition limits Site Location of Development approval to projects in excess of 60,000 square feet. This area limitation is consistent with other provisions of the statute.

Section 2. There has been a great deal of confusion over what is meant by the word "structure" in Title 38, section 482. The suggested definition is consistent with the definition of "structure" used in the Land Use Regulation Commission statute, but adds roads and parking lots in accordance with an Attorney General's opinion and current board practice.

Section 3. This addition to the statute clarifies the requirement that projects which substantially affect the environment must first have approval from the Board of Environmental Protection before any physical activity is undertaken by a developer. The existing statute requires this approval, but it is not stated as clearly as the suggested addition, which is based upon advice of the Attorney General.

Section 4. Permits the Board of Environmental Protection to solicit and receive testimony in regard to the economic impact of a project on the well-being of the citizens of the State of Maine. This type of testimony is now

being offered by applicants, but there is some question about the board's authority to accept such testimony. The suggested language will clarify this question.

This bill in general does not expand or add to the authority of the Board of Environmental Protection. It clarifies practices which are now routine procedures under the Site Location of Development Statute.