

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 812

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H. P. 654 House of Representatives, February 26, 1975  
Referred to Committee on Health and Institutional Services. Sent up for  
concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Kennedy of Gray.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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AN ACT to Establish the Maine Safe Drinking Water Act.

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

22 MRSA c. 565 is enacted to read:

§ 2601. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Commissioner. "Commissioner" means chief executive officer of the department or his authorized agent.

2. Contaminant. "Contaminant" means any physical, chemical, biological, radiological or other substance or matter which causes or transmits infectious disease, chemical poisoning, chronic disease or other impairment to man.

3. Department. "Department" means the Department of Health and Welfare.

4. National Drinking Water Regulations. "National Drinking Water Regulations" means drinking water regulations set by the Administrator of the U. S. Environmental Protection Agency.

5. Person. "Person" means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the State, trust, estate, joint structure company, or any other legal entity, or their legal representative, agent or assigns.

6. Political subdivision. "Political subdivision" means any municipality, township, county, district, authority, or any portion or combination of 2 or more thereof.

7. Public water system. "Public water system" means any publicly or privately owned water works system which provides drinking water, including bottled water, for human consumption. This shall not include systems which supply less than 15 service connections or 25 individuals, unless such system has been designated by rule for inclusion by the commissioner.

8. Supplier of water. "Supplier of water" means any person who controls, owns or operates a public water system.

9. Water works system. "Water works system" means the system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances.

#### § 2602. Drinking water regulations

1. State primary drinking water regulations. The commissioner shall promulgate and enforce state primary drinking water regulations, the attainment and maintenance of which are necessary to protect the public health. Such primary regulations shall be consistent with the National Primary Drinking Water Regulations issued or prescribed by the U. S. Environmental Protection Agency.

2. State secondary drinking water regulations. The commissioner shall adopt state secondary drinking water regulations or voluntary guidelines or both. Such regulations shall be based upon National Secondary Drinking Water Regulations promulgated by the Administrator of the United States Environmental Protection Agency to reasonably insure aesthetically adequate drinking water.

3. Procedure if state regulations differ from federal regulations. Whenever regulations promulgated by the commissioner pursuant to this section differ from the regulations and programs issued or prescribed by the U. S. Environmental Protection Agency, the department shall hold public hearings thereon with at least 30 days' notice thereof by one publication in a newspaper of general circulation in each of the Congressional Districts of the State.

#### § 2603. Supervision, regulations, records and inspections

1. Construction of public water systems. The department shall exercise surveillance over the construction of public water systems throughout the State. No new construction shall be done nor shall any change be made in any public water system until the plans for such new construction or change have been submitted to and approved by the department unless exempted by rule of the commissioner. In granting approval of such plans, the department may specify such modifications, conditions and regulations as may be required for the protection of the public health. The department is author-

ized to investigate public water systems throughout the state as often as is deemed necessary by the commissioner. The department is empowered to adopt and enforce rules and regulations governing the construction of public water systems, and may require the submission of samples of water for examination to determine the extent of any treatment required. Records of construction, including plans and descriptions of existing works, shall be made available to the department upon request. The person in charge of the public water system shall promptly comply with such request.

2. Operation and maintenance of public water systems. The department shall exercise surveillance over the operation and maintenance of public water systems throughout the State. Such surveillance shall include all of the features of operation and maintenance which do or may affect the quality of the water supply. For exercising such surveillance over the operation and maintenance of public water systems, the department is authorized to investigate the public water supplies as often as is deemed necessary by the commissioner, and may adopt and enforce regulations governing the operation and maintenance of public water systems. Records of operation of public water systems shall be kept on forms specified by the department and this data shall be submitted to the department when and in such manner as the department may direct. When the department requires the submission of such records or reports of operation and samples of water, the person in charge of the public water system shall promptly comply with such request.

3. Inspections. Any officer or employee duly designated by the commissioner, upon presenting appropriate credentials and a written notice of inspection authority to any supplier of water or person in charge of any of its property, is authorized to enter any establishment or facility in order to determine whether such supplier has acted or is acting in compliance with this chapter, including for this purpose inspection, at reasonable times, of records, files, papers, processes, controls and facilities, or in order to test any feature of a public water system, including its raw water source. Each inspection shall be commenced and completed with reasonable promptness and the supplier notified of the results of such inspection.

#### § 2604. Imminent hazards

1. Determination of imminent hazard. An imminent hazard shall be considered to exist when in the judgment of the commissioner there is a violation of the state primary drinking water regulations, or a condition which will cause a violation and will result in a serious risk to public health in a public water system.

2. Elimination of imminent hazard. In order to eliminate an imminent hazard, the commissioner may, without notice or hearing, issue an emergency order requiring the water supplier to immediately take such action as is required under the circumstances to protect the public health. A copy of the emergency order shall be served in the same manner as the service of notice of the commencement of a civil action in District Court. An emergency order issued by the commissioner shall be effective immediately and binding until

reviewed by the department at a public hearing or modified or rescinded by a District Court. At the request of the supplier, the public hearing must be held within 15 days.

#### § 2605. Notification of users and regulatory agencies

1. Notification of noncompliance. Whenever the water delivered by the public water supply system is not in compliance with the state primary drinking water regulations, the supplier of such water shall notify its users, the local public health department, the department, and, through the department, the Administrator of the U. S. Environmental Protection Agency, of the non-compliance and the extent and nature and possible health effects of such noncompliance. Notification to users shall be in a form and manner prescribed by the commissioner.

2. Certain uses of notification prohibited. Notification received pursuant to this section of information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except the prosecution for perjury or for giving a false statement.

#### § 2606. Prohibited acts

The following acts and the causing thereof are prohibited.

1. Failure to comply with section 2605 or dissemination of certain misleading information. Failure by a supplier of water to comply with the requirements of section 2605, or dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with state primary drinking water regulations.

2. Failure to comply with certain regulations and actions under sections 2603 and 2604. Failure by a supplier of water to comply with the regulations for monitoring, maintenance, operations, reporting and corrective actions pursuant to sections 2603 and 2604.

3. Refusal to allow entry under section 2603. The refusal of a supplier of water to allow entry and inspection of establishments, facilities or other property pursuant to section 2603.

#### § 2607. Penalties and remedies

1. Violation of section 2606. Any person willfully violating section 2606 shall, on conviction, be punished by a fine of not more than \$5,000.

2. Injunctive relief. The commissioner may cause to be instituted a civil action in any court of applicable jurisdiction for injunctive relief to prevent violation of any order issued pursuant to sections 2603 and 2604.

#### § 2608. Administration

To carry out the provisions and purposes of this chapter, the commissioner is authorized and empowered to:

1. Agreements. Enter into agreements, contracts or cooperative arrangements under such terms and conditions as he deems appropriate with other state, federal or interstate agencies, municipalities, educational institutions, local health departments or other organizations or individuals;

2. **Assistance.** Receive financial and technical assistance from the Federal Government and other public or private agencies;
3. **Related programs.** Participate in related programs of the Federal Government, other states, interstate agencies or other public or private agencies or organizations;
4. **Fiscal control and accounting.** Establish adequate fiscal controls and accounting procedures to assure proper disbursement of, and accounting for, funds appropriated or otherwise provided for the purpose of carrying out the provisions of this chapter;
5. **Delegation of responsibilities.** Delegate those responsibilities and duties as deemed appropriate for the purpose of administering requirements of this chapter;
6. **Fees.** Establish and collect fees for conducting inspections and laboratory analyses as may be necessary.

#### STATEMENT OF FACT

The National "Safe Drinking Water Act", a modification of H.R. 13002, has become law. It is now expedient for the State to design a law unencumbered by excessive language and administrative controls, and to attempt to be responsive to future federal programs for drinking water so as to ensure the greatest likelihood of coordination of state and federal efforts. Future programs are expected to place substantial responsibility upon state governments, thereby requiring broad state legislative authority capable of fulfilling this responsibility.

This proposed state legislation is modeled after the "1974 Suggested State Legislation" — "Safe Drinking Water Act" by "The Council of State Governments".