

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 881

H. P. 694 House of Representatives, February 28, 1975
Referred to the Committee on Natural Resources. Sent up for concurrence
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wilfong of Stow.
Cosponsor: Mr. Curran of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Amend the Protection and Improvement of Air Statutes.

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

Sec. 1. 38 MRSA § 583-A is enacted to read:

§ 583-A. Regulations for hearing and applications

1. Administration. The board may adopt reasonable rules and regulations necessary for the proper administration, enforcement and implementation of the requirements of this chapter, including:

- A. Form and content of applications;
- B. Public notice and comment; and
- C. Public hearing procedures.

Sec. 2. 38 MRSA § 584, 2nd ¶, as last amended by PL 1971, c. 618, § 12, is further amended to read:

Prior to the establishment or amendment of ambient air quality standards, the board shall conduct a public hearing in some municipality within the region, and shall give public notice of its intent to establish standards for the region and of the date, time and place of the hearing by publication in some newspaper of general circulation throughout the region, or if none, in the state paper; the date of the first publication to be at least 15, and the date of the last publication to be at least 3 days before the date of the hearing.

Sec. 3. 38 MRSA § 587, 2nd ¶, as last amended by PL 1973, c. 682, is repealed and the following enacted in place thereof:

No variance shall be granted except after a public hearing in the municipality where the applicant maintains the building or business in connection with which the variance is sought.

Sec. 4. 38 MRSA § 590, 2nd ¶, 5th sentence, as enacted by PL 1971, c. 462, § 5, is repealed as follows:

~~Public notice of the date, time and place of any such hearing shall be published in some newspaper of general circulation within the region where the proposed emission is to be located, once a week for 2 successive weeks, the last publication to be at least 3 days before the hearing, and notice thereof shall also be given to the applicant at least 14 days in advance~~

Sec. 5. 38 MRSA §§ 595 and 596, as last amended by PL 1971, c. 618, § 12, are repealed and the following enacted in place thereof:

§ 595. Enforcement; violations

All orders and regulations of the board and provisions of this chapter shall be enforced by the Attorney General. If any order or regulation of the board or provisions of this chapter is not complied with within the time period specified, the board shall immediately notify the Attorney General of this fact. Thereafter, the Attorney General shall commence an action in the Superior Court of any county where the violation of the board's order or regulation has occurred, seeking injunctive relief to prohibit further violation thereof or penalties prescribed in sections 453 and 454.

§ 596. Violations of orders and regulations; penalties

Any person who violates any provision of this chapter or any order or regulation of the board issued in accordance with this chapter shall be subject to the penalties set forth in sections 453 and 454.

Sec. 6. 38 MRSA § 606 is enacted to read:

§ 606. Nonpoint sources or indirect sources; review of public ways

1. Prohibition. No person, firm, corporation, municipality, state agency or other entity shall commence construction of any highway project of 4 or more lanes in the State unless the Board of Environmental Protection has first determined that the project will not violate the State of Maine Ambient Air Quality Standards. The person or agency proposing to construct a highway resulting in 4 or more lanes shall submit to the Department of Environmental Protection an air quality impact analysis. This analysis shall be conducted in accordance with such mathematic modeling techniques as are mutually acceptable to the department, The Federal Environmental Protection Agency and the Federal Highway Administration.

2. Exemptions. The foregoing shall not apply, however, to highway projects that will have no significant effect on air quality, such as lights, signs, landscaping and resurfacing.

3. Scope. The requirements of this section shall apply in all the air quality regions of the State.

Sec. 7. Effective date. Section 6 of this Act shall be retroactive to April 10, 1974.

STATEMENT OF FACT

This bill makes the provisions for applications, hearings and notice in the protection and improvement of air statutes similar to the provisions found in the protection and improvement of waters statutes.

The bill also removes hearing notice required from the protection and improvement of air statutes that are inconsistent with the other statutes administered by the Department of Environmental Protection.

The bill will provide for enforcement against violations of the statutes, an oversight of the present statutes. In addition the Office of the Attorney General may seek civil and criminal penalties as well as injunctive relief. These penalties are now found in the protection and improvement of water statutes.

The bill enables the Board of Environmental Protection and the Office of the Attorney General to seek civil penalties in addition to the criminal penalties now permitted by existing statutes.

The bill also adopts a regulation promulgated by the Board of Environmental Protection for all emission standards. Current statutes require that regulations must be adopted by the Legislature at the next session immediately following their adoption by the board or they lapse. The Federal Environmental Protection Agency promulgated regulations to require all states to adopt procedures to review all indirect sources of air emissions for compliance with air quality standards, including parking facilities and highways. The State Implementation Plan, through provisions of the site location approval procedures, provided for all such review and determination except for highways. Therefore, a regulation was developed to require determination and approval of only certain highways that could cause violations of air quality standards. All proper public hearings have been held on this regulation, it was adopted by the board, submitted to the Environmental Protection Agency and accepted as part of the Implementation Plan and is required as a part of Maine's Implementation Plan to have a total acceptable plan.