

MAINE STATE LEGISLATURE

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(EMERGENCY)
New Draft of H. P. 130, L. D. 154

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1502

H. P. 1464

House of Representatives, April 8, 1975

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

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Extend Date for Closing of Open Burning Dumps.

Emergency preamble. Whereas, Acts passed by the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature has established a deadline for the closing of open burning dumps; and

Whereas, present economic conditions threaten great hardships to those towns which must find other means for disposal; and

Whereas, the following legislation is vitally necessary to extend the prior deadline established by the Legislature, thus avoiding such hardships; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA § 361, 8th ¶, last sentence, as enacted by PL 1973, c. 217, is repealed.

Sec. 2. 38 MRSA § 599, sub-§ 1, ¶ B, as enacted by PL 1973, c. 438, § 8, is repealed and the following enacted in place thereof:

B. Except as provided in subsection 2, open burning of waste of any kind at sites other than a municipal solid waste disposal site is prohibited after July 1, 1975.

C. Open burning of solid waste material at a municipal solid waste disposal site serving less than 1,000 persons shall only be prohibited where the Board of Environmental Protection, after investigation and hearing, determines that the continuance of open burning at a specific municipal site is in violation of air quality standards.

D. Open burning of solid waste materials at a municipal solid waste disposal site serving 1,000 or more persons is prohibited after September 1, 1975, unless the owners and leasee of the municipal solid waste disposal site apply for a variance under this section from the Board of Environmental Protection.

While an application for a variance is being processed by the Department of Environmental Protection, open burning at the municipal site in question may continue until the board makes its final decision on the application.

E. Whenever the Board of Environmental Protection shows that open burning at a municipal solid waste disposal site violates air quality standards or whenever the board denies a variance under this section it shall, after consultation with the violator or applicant for a variance, establish a reasonable compliance schedule aimed at bringing about the cessation of open burning at the municipal waste disposal site under consideration. This compliance schedule shall include, but not be limited to, the following:

- (1) Arrangements for administration and financing;
- (2) Plans and specifications;
- (3) Studies and investigations;
- (4) Site acquisition;
- (5) Purchase of necessary equipment; and
- (6) Operational date of the proposed solid waste disposal site.

A compliance schedule established under this section shall be conditioned upon reasonable terms and conditions aimed at achieving air quality standards and shall be for a time of not less than 2 years.

Sec. 3. 38 MRSA § 599, sub-§ 5 is enacted to read:

5. Variances. Any municipality maintaining or leasing an open-burning solid waste disposal site may apply to the board for a variance to the open-burning requirements of this section. The application shall be accompanied by such information and data as the board may require. The staff of the Department of Environmental Protection shall provide air quality technical assistance to municipal applicants for a variance under this section. The board may grant a variance if it shows that:

- A. The emissions from the open burning do not endanger human health or safety; and
- B. Compliance with the open burning requirements of this section would produce a serious hardship.

No variance shall be granted under this section unless a public notice of the intent to grant a variance is published in the state paper and a newspaper circulated in the area at least 10 days prior to the meeting at which the board is scheduled to act on the variance.

The Board of Environmental Protection may conduct a public hearing on any variance application under this section if it determines that there is substantial objection to the granting of the variance. The Board of Environmental Protection, if it determines that it will deny the variance applied for, shall conduct a public hearing for the municipality which made application, before the denial becomes effective, to give the town the opportunity to show that the conditions stated in this subsection, paragraphs A and B, exist and that a variance should be granted. Public notice of hearings described in this paragraph shall be published in the state paper and a newspaper circulated in the municipality at least 10 days prior to the date of the public hearing.

The board, after granting a variance to a municipality under this section, if it determines that the municipal solid waste disposal facility does not violate air quality standards, shall take all necessary steps to remove that facility from the United States Environmental Protection Agency approved State of Maine Air Quality Implementation Plan.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill will exempt municipalities of less than 1,000 in population from applying for a variance for their open burning dumps, unless they are found to be in violation of air quality standards. Other municipalities may apply for a variance until September 1, 1975. Those towns denied a variance after September 1, 1975 will have not less than a 2-year extension from the date of denial to establish a compliance schedule, with the assistance of the Department of Environmental Protection.