

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND EIGHTH LEGISLATURE

---

---

Legislative Document

No. 680

H. P. 529

House of Representatives, February 24, 1977

On motion of Mr. Blodgett of Waldoboro, referred to Committee on Natural Resources. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Green of Auburn.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

---

---

**AN ACT to Assign the Responsibilities of Sewage Disposal to the  
Department of Environmental Protection.**

---

---

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

Sec. 1. 22 MRSA § 42, sub-§ 3, 1st ¶, as last amended by PL 1975, c. 760, § 3, is further amended to read:

The department shall adopt rules and regulations relating to plumbing and subsurface sewage disposal systems and the installation and inspection thereof consistent with Title 30, sections 3221 to 3225 and Title 32, sections 3301 to 3507; and shall hold hearings on the first Tuesday of February and August of each year for the purpose of considering changes in the rules and regulations pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof. The department shall prior to adopting or amending rules and regulations invite participation and receive written comments from other interested state agencies including: The Department of Environmental Protection; the Land Use Regulation Commission; the State Housing Authority; the Soil and Water Conservation Commission and the Plumbing Examining Board.

Sec. 2. 22 MRSA § 42, sub-§ 3, 2nd ¶, 3rd and 4th sentences, as enacted by PL 1975, c. 762, § 1, are repealed as follows:

~~The rules and regulations adopted by the department shall provide with respect to the repair and replacement of any part or parts of existing subsurface sewage disposal systems, serving family dwellings inhabited by no more than 2 individual families, a local option permitting the municipal plumbing inspector to waive the site evaluation requirements provided that~~

~~the waiver will not result in violations of other regulations or ordinances adopted pursuant to the Plumbing Code. The local option shall not apply to disposal systems located within 100 feet of any pond or river subject to shore-land zoning controls~~

**Sec. 3.** ~~22 MRSA § 42, sub-§ 3-A, 1st ¶~~, as enacted by PL 1975, c. 760, § 4, is repealed.

**Sec. 4.** ~~30 MRSA § 3221, sub-§ 1, 1st ¶~~, as enacted by PL 1973, c. 521, § 4, and as amended by PL 1975, c. 293, § 4, is further amended to read:

Municipalities may by ordinance prescribe regulations for the materials, construction, alteration and inspection of all pipes, tanks, faucets, valves and other fixtures by and through which water, waste or sewage is used or carried, and for the materials and sizes of pipe which carry water to all plumbing fixtures; provided that all permit fees established shall be the same as those fees established by the ~~Department~~ **Departments** of Human Services and Environmental Protection, as applicable.

**Sec. 5.** ~~30 MRSA § 3221, sub-§ 1, ¶ A~~, as enacted by PL 1973, c. 521, § 4, and as amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

**A.** Any regulation, which exceeds the minimum requirements of the rules and regulations of the Department of Human Services relating to plumbing or of the Department of Environmental Protection relating to subsurface sewage disposal, enacted by a municipality shall not become effective until approved by the appropriate department. The municipality shall submit the proposed regulation to the appropriate department within 30 days following its adoption. The department shall approve or disapprove the proposed regulation within 30 days of the receipt thereof. If the department fails to approve or disapprove the proposed municipal regulation within 30 days of the receipt thereof, the proposed regulation shall be deemed to be approved.

**Sec. 6.** ~~30 MRSA § 3221, sub-§ 2~~, as enacted by PL 1973, c. 521, § 4, and as amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

**2.** State regulations. No ordinance enacted by a municipality may provide less than the minimum requirements of the rules and regulations of the Department of Human Services relating to plumbing, or of the Department of Environmental Protection relating to subsurface sewage disposal, provided that all permit fees shall be determined by regulations of the appropriate departments. The rules and regulations of the Department of Human Services in relation to all plumbing, or of the Department of Environmental Protection in relation to subsurface sewage disposal, shall have full force and effect; provided however, to the extent that a municipality has enacted ordinances, the provisions of those ordinances shall prevail.

**Sec. 7.** ~~30 MRSA § 3221, sub-§ 3, 1st sentence~~, as enacted by PL 1973, c. 521, § 4, is amended to read:

For the purposes of this subchapter, "plumbing" means the installation, removal, alteration or repair of pipes, fixtures and other apparatus for bringing

in the water supply and removing and disposing of liquid and water-carried wastes, including the necessary piping and water connections to all types of domestic heating apparatus using water ~~and subsurface~~, but not including any elements of sewage disposal systems.

**Sec. 8.** 30 MRSA § 3222, sub-§ 3, ¶ A, as enacted by PL 1973, c. 521, § 4, is amended to read:

**A.** Inspect all plumbing and subsurface sewage disposal systems for which permits are granted, within their respective municipalities, to assure compliance with state and municipal regulations and investigate all construction or work covered by those regulations;

**Sec. 9.** 30 MRSA § 3223, sub-§ 1, 1st sentence, as enacted by PL 1973, c. 521, § 4, is amended to read:

No pipes, tanks, faucets, valves or other fixtures not related to a manufacturing or industrial operation or the waste from such operation located on or about such operation shall be placed in any building, nor shall any septic tank or other system of ~~private subsurface~~ sewage disposal be installed to receive the drainage from such plumbing, except to repair leaks or to replace an existing fixture, except a water heater, to be used for the same purpose, unless a permit for installation of such work has been issued by the municipal plumbing inspector.

**Sec. 10.** 32 MRSA § 4906, sub-§ 5, 1st sentence, as enacted by PL 1975, c. 760, § 7, is repealed and the following enacted in its place:

Persons who have been licensed by the Department of Environmental Protection under Title 38, section 375, subsection 4.

**Sec. 11.** 38 MRSA § 361-A, sub-§ 4-B is enacted to read:

**4-B.** Subsurface sewage disposal system. "Subsurface sewage disposal system" shall mean any system for disposing of wastes or waste waters on or beneath the surface of the earth including, but not limited to, holding ponds, surface spray systems, septic tanks, drainage fields, cesspools, wells, holding tanks, surface ditches or any other fixture, mechanism or apparatus used for such purposes, but shall not include any discharge system licensed under section 414 or any municipal or quasi-municipal sewer system.

**Sec. 12.** 38 MRSA § 373 is enacted to read:

§ 373. Sewage disposal

**1.** Standards and enforcement. The Board of Environmental Protection shall exercise the police power of the State to preserve the health and welfare of its citizens with respect to the disposal of sewage and other water-carried wastes in subsurface sewage disposal systems. In so doing, the board shall consult with and advise persons having or about to have subsurface sewage disposal systems as to the best method of disposing of the drainage, sewage or other waste waters. It shall establish and enforce reasonable standards and guidelines for the construction, installation, operation, repair and maintenance of subsurface systems and it may conduct experiments to determine the best design for such systems.

2. **Regulations.** The Board of Environmental Protection shall adopt rules and regulations relating to subsurface sewage disposal systems and the installations and inspections thereof. The Board of Environmental Protection shall, prior to adopting or amending rules and regulations, solicit and receive written comments from other interested agencies including, but not limited to, the Department of Human Services, Department of Conservation, Department of Marine Resources, Department of Inland Fisheries and Wildlife, Department of Agriculture and the Plumbing Examining Board, as well as other interested persons.

3. **Existing systems.** The rules and regulations adopted by the department shall provide, with respect to the repair and replacement of any part or parts of existing subsurface sewage disposal systems serving family dwellings inhabited by no more than 2 individual families, a local option permitting the municipal plumbing inspector to waive the site evaluation requirements, provided that the waiver will not result in violations of other regulations or ordinances adopted pursuant to the Plumbing Code. The local option shall not apply to disposal systems located within 100 feet of any pond or river subject to shoreland zoning controls.

4. **Licensed soil evaluators.** The Board of Environmental Protection shall adopt regulations establishing suitable qualifications for persons to be authorized to evaluate soil types and subsurface conditions to determine their suitability for subsurface sewage disposal systems. The board shall further adopt regulations establishing procedures for the testing, licensing and relicensing of such persons, and for the revocation or suspension of such licenses upon a finding by the board that the specified duties are not being reasonably carried out.

**Sec. 13. Transition.** All rules, regulations, forms and procedures currently in use adopted by the Department of Human Services shall be effective until the Board of Environmental Protection adopts regulations which are to supersede those of the Department of Human Services.

**Sec. 14. Transfer of personnel and moneys.** The Legislative Finance Office in cooperation with the Department of Finance and Administration shall examine the budget of the Department of Human Services, Division of Health Engineering, to determine what personnel and moneys have been assigned to the subsurface sewage disposal function to determine what personnel and moneys have been assigned to the subsurface sewage disposal function to determine what personnel and moneys should be transferred to the Department of Environmental Protection.

#### STATEMENT OF FACT

This proposal assigns the responsibility for all sewage disposal to the Department of Environmental Protection. This will enable people to obtain all information and service about all types of sewage disposal from one agency. There will be no change in the manner a person obtains a permit, since the existing local plumbing inspector system will be utilized by the Department of Environmental Protection.