

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 664

H. P. 521

House of Representatives, February 20, 1979

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

EDWIN H. PERT, Clerk

Presented by Ms. Lund of Augusta.

Cosponsor: Mr. Baker of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Establish the Aquifer Protection Act.**

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

38 MRSA c. 3, sub-c. II-B is enacted to read:

**SUBCHAPTER II-B**

**AQUIFER PROTECTION ACT**

§ 561. Short title

This subchapter shall be known as and may be cited as the "Aquifer Protection Act."

§ 562. Findings; purpose

The Legislature finds and declares that the protection of groundwater resources is critical to the future promotion of the health, safety and general welfare of the people of the State. Aquifers provide a significant amount of the groundwater used by the people of the State. Aquifers are a critical element of the hydrologic cycle. Aquifer recharge areas serve as natural filters for impure groundwater.

The Legislature also finds and declares that an adequate supply of safe drinking water is a matter of the highest priority and that it is the policy of the State to

protect, conserve and maintain existing and potential aquifers and aquifer recharge areas within the State.

The Legislature further declares it to be the purpose of this subchapter to prohibit development and land use practices which endanger aquifers and aquifer recharge areas. These practices include, but are not limited to, sludge and solid waste disposal, hazardous waste storage and disposal and road salt material storage and use.

#### § 563. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Animal feedlot. "Animal feedlot" means a plot of land on which 25 or more livestock per acre are kept for the purpose of feeding.
2. Aquifer. "Aquifer" means a geologic formation composed of rock or sand and gravel that contains useful water that is recoverable at the rate of 10 gallons per minute or more through a properly constructed water well.
3. Aquifer recharge area. "Aquifer recharge area" means land composed of permeable sand and gravel or fractured rock that serves to collect precipitation or surface water and carry it to aquifers.
4. Board. "Board" means the board of Environmental Protection.
5. Commissioner. "Commissioner" means the Commissioner of Environmental Protection.
6. Department. "Department" means the Department of Environmental Protection.
7. Development. "Development" means land subdivisions as defined in Title 30, section 4956 and development as defined in Title 38, section 482, subsection 2.
8. Groundwater. "Groundwater" means all the water found beneath the surface of the ground. In this subchapter, the term refers to the slowly moving subsurface water present in aquifers and aquifer recharge areas.
9. Hazardous waste. "Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:
  - A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.
10. Leachable waste. "Leachable waste" means waste materials including solid wastes, sludge and agricultural wastes that are capable of releasing water borne contaminants into the surrounding environment.

11. **Solid waste.** "Solid waste" means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge or agricultural wastes.

12. **Mining of land.** "Mining of land" means the removal or relocation of geologic materials such as topsoil, sand and gravel, metallic ores or bedrock.

#### § 564. Identification and mapping

The Maine Geological Survey, in cooperation with the United States Geological Survey, shall identify and map aquifers and aquifer recharge areas within the State. Aquifers and aquifer recharge areas shall be identified by standard geologic and hydrologic investigations which may include drilling observation wells, performing pumping tests, water sampling and geologic mapping.

#### § 565. Prohibited acts

It shall be unlawful for any person to conduct any of the following activities within areas defined as aquifers or aquifer recharge areas:

1. **Solid waste.** Disposal of solid waste, other than brush or stumps;
2. **Hazardous wastes.** Disposal or storage of hazardous wastes;
3. **Petroleum.** Storage of petroleum or other refined petroleum products;
4. **Liquid or leachable wastes.** Disposal of liquid or leachable wastes except one and 2-family residential septic systems;
5. **Road salt.** Storage of road salt or other de-icing agents; or
6. **Rendering imperious.** The rendering imperious of more than 10% of any lot.

#### § 566. Conditional acts

1. **Conditions.** Persons may conduct the following activities within areas defined as aquifers or aquifer recharge areas under a conditional-use permit granted by the board and subject to such conditions as the board may attach to its approval:

- A. **Development;**
- B. **Animal feedlots;**
- C. **Manure piles and manure storage pits;**
- D. **Spraying or spreading chemical fertilizers or pesticides;**
- E. **Mining of land; or**
- F. **Piling or storing bark.**

#### § 567. Conditional-use permit; standards

The board shall grant a conditional-use permit to conduct the activities in section 566 upon proper application and upon such terms as it deems necessary to fulfill the purposes of this subchapter when it finds that a proposed activity will not unreasonably:

1. Depletion of groundwater supplies. Deplete groundwater supplies;
2. Interference with aquifer recharge. Interfere with aquifer recharge; or
3. Lower water quality. Lower the quality of potable groundwater. Within 30 days after receipt of a completed application for a permit, the board shall either issue the permit or deny the permit setting forth the reasons therefor or order a hearing thereon within 30 days of the order for which hearing adequate public notice shall be given. Within 30 days after the adjournment of the hearing, the board shall either issue the permit or deny the permit setting forth the reasons therefor. In the event that a permit applied for is denied by the board, the applicant may request a hearing before the board with reasonable public notice given.

**§ 568. Enforcement; violation**

The Department of Environmental Protection shall enforce this subchapter.

Any person who violates sections 565 or 566 or neglects or refuses to comply with any of the provisions thereof, commits a civil violation for which a forfeiture of \$500 may be adjudged for each day a violation exists and an injunction against further violation may be issued.

**§ 569. Appeals**

Any person aggrieved by a decision of the board or the department shall commence his appeal within 30 days of receipt of notification of a decision or determination. This appeal shall be filed with the Superior Court of appropriate jurisdiction.

**STATEMENT OF FACT**

This bill requires the State to identify and map aquifers and aquifer recharge areas. The bill protects the ground water of the State by prohibiting and controlling activities which endanger aquifers and aquifer recharge areas.