

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2026

6  
7 S.P. 735

In Senate, February 1, 1984

8 Reported by Senator Trafton for The Commission on Local Land Use  
9 Violation pursuant to Public Law 1983 Chapter 458, Section 19.

10 Reference to the Committee on Energy and Natural Resources suggested  
and printing ordered under Joint Rule 18.

JOY J. O'BRIEN, Secretary of the Senate

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT to Provide for a Citizens  
18 Environmental Protection Act.  
19

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

22 14 MRSA c. 743 is enacted to read:

23 CHAPTER 743

24 CITIZENS ENVIRONMENTAL PROTECTION ACT

25 §8151. Title

26 This chapter shall be cited as the "Citizens En-  
27 vironmental Protection Act."

28 §8152. Findings and purpose

29 The Legislature finds and declares that each per-  
30 son is entitled to the protection, preservation and

1 enhancement of air, water, land and other natural re-  
2 sources located within the State and that each person  
3 has the responsibility to contribute to the protec-  
4 tion, preservation and enhancement of those re-  
5 sources. It is in the public interest to provide  
6 Maine citizens with an additional remedy to protect  
7 air, water, land and other natural resources located  
8 within the State pursuant to this chapter.

9 §8153. Definitions

10 As used in this chapter, unless the context indi-  
11 icates otherwise, the following terms have the follow-  
12 ing meanings.

13 1. Person. "Person" means an individual, firm,  
14 corporation, municipality, quasi-municipal corpora-  
15 tion, state agency, federal agency or other legal en-  
16 tity.

17 §8154. Right of action

18 Except as provided in section 8155, any person  
19 who is a resident of Maine may commence a civil ac-  
20 tion on his own behalf for injunctive and declaratory  
21 relief against any person who is alleged to have vio-  
22 lated, be violating or about to violate any law, per-  
23 mit, standard, regulation, condition, requirement,  
24 limitation or order which has become effective under  
25 the following laws of this State:

26 1. Laws administered by Department of Environ-  
27 mental Protection. All laws administered by the De-  
28 partment of Environmental Protection, except the Oil  
29 Discharge Prevention and Pollution Control Act, Title  
30 38, sections 541 to 560, and the Maine Hazardous  
31 Waste Fund, Title 38, sections 1319-B to 1319-K;

32 2. Laws administered by Maine Land Use Regula-  
33 tion Commission. Laws administered by the Maine Land  
34 Use Regulation Commission, Title 12, sections 681 to  
35 689;

36 3. Pesticide Control Act. Pesticide Control  
37 Act, Title 7, sections 601 to 621;

1           4. Alteration of rivers, streams and brooks  
2 laws. Alteration of rivers, streams and brooks laws,  
3 Title 12, sections 7776 to 7780; and

4           5. Municipal shoreland zoning ordinances. Mu-  
5 nicipal shoreland zoning ordinances adopted or im-  
6 posed pursuant to the mandatory zoning and subdivi-  
7 sion control laws, Title 12, sections 4811 to 4817.

8           No such action may be brought against the State,  
9 any instrumentality or agency of the State or any po-  
10 litical subdivision of the State. Any person bring-  
11 ing an action under this section shall be deemed to  
12 have standing to maintain the action.

13           §8155. Notice of action

14           1. Commencement of action; notice. No action  
15 may be commenced under this chapter:

16           A. Prior to 60 days after the plaintiff has  
17 given notice of the violation and his intention  
18 to bring suit pursuant to section 8154 to:

19                   (1) The commissioner, director or chief ad-  
20 ministrative officer of the department or  
21 municipality which may administer the law,  
22 permit, standard, regulation, condition, re-  
23 quirement, limitation or order which alleg-  
24 edly is being violated;

25                   (2) The Attorney General; and

26                   (3) Each person alleged to be violating the  
27 law, permit, standard, regulation, condi-  
28 tion, requirement, limitation or order;

29           B. If the Attorney General or the commissioner,  
30 director or chief administrative officer of the  
31 department or municipality, at any time prior to  
32 the end of the 60-day notice period described in  
33 paragraph A, has commenced an action in a court  
34 of the United States or Maine or an administra-  
35 tive enforcement proceeding commenced pursuant to  
36 law which seeks an order or injunction or other  
37 remedy for failure to comply with the law, per-  
38 mit, standard, regulation, condition, require-  
39 ment, limitation or order involved; or

1           C. If the Attorney General or the commissioner,  
2 director or chief administrative officer of the  
3 department or municipality, at any time prior to  
4 the end of the 60-day notice period described in  
5 paragraph A, has provided written notice to the  
6 plaintiff that he will, within 30 days, commence  
7 an action in a court of the United States or  
8 Maine or an administrative enforcement proceeding  
9 pursuant to law which seeks an order or injunc-  
10 tion or other remedy for failure to comply with  
11 the law, permit, standard, regulation, condition,  
12 requirement, limitation or order involved. In  
13 the event that the Attorney General or the com-  
14 missioner, director or chief administrative offi-  
15 cer of the department or municipality fails to  
16 commence the judicial or administrative enforce-  
17 ment proceeding, the plaintiff may then commence  
18 a civil action pursuant to section 8154.

19           2. Service. A copy of the complaint, other  
20 pleadings and documents shall be served upon the per-  
21 sons listed in subsection 1, paragraph A,  
22 subparagraphs (1) and (2) at the time of service on  
23 the defendant. Copies of all answers and other docu-  
24 ments accompanying the answers shall also be served  
25 upon the persons listed in subsection 1, paragraph A,  
26 subparagraphs (1) and (2) at the time of service on  
27 the plaintiff.

28           3. Application. The 60-day notice requirement  
29 of subsection 1, paragraph A, is not applicable when  
30 the plaintiff can show that the matter in controversy  
31 involves a substantial, imminent and irreversible  
32 damage or loss to the interests of the plaintiff.

33           §8156. Intervention by State

34           The Attorney General may intervene in any action  
35 brought pursuant to this chapter as a matter of  
36 right.

37           §8157. Costs and fees

38           The court, in issuing any final order in any ac-  
39 tion brought pursuant to this chapter, may award  
40 costs of litigation and reasonable attorneys' fees  
41 and expert witness fees to any party whenever the

1 court determines that the award is appropriate. No  
2 costs may be awarded against the State, any instru-  
3 mentality or agency of the State or any political  
4 subdivision of the State.

5 §8158. Existing remedies preserved

6 Nothing in this section may restrict in any way  
7 any right which any person may have under any statute  
8 or common law to seek enforcement of any law, permit,  
9 standard, regulation, condition, requirement, limita-  
10 tion or order or to seek any other relief.

11 STATEMENT OF FACT

12 The purpose of this bill is to provide Maine cit-  
13 izens with a right of action in order to protect and  
14 preserve air, water, land and other natural resources  
15 within the State.

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