

# MAINE STATE LEGISLATURE

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D. OF R.

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L.D. 375  
(Filing No. S- 149 )

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STATE OF MAINE  
SENATE  
112TH LEGISLATURE  
FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A " to S.P. 136, L.D. 375,  
Bill, "AN ACT to Clarify Municipal Authority over Au-  
tomobile Graveyards and Junkyards."

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Amend the Bill by striking out everything after  
the enacting clause and inserting in its place the  
following:

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'30 MRSA §2454, sub-§5, as enacted by PL 1965, c.  
481, §3, is amended to read:

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5. Rules. No permit shall may be granted for an  
automobile graveyard or junkyard that is not in con-  
formity with the rules and regulations promulgated  
under section 2459; however, municipal officers or  
county commissioners as provided for in section 2452  
may in their discretion apply more stringent restric-  
tions, limitations and conditions in considering  
whether to grant or to deny any permit for an automo-  
bile graveyard or junkyard adjacent to any highway.  
Municipal officers may stipulate reasonable condi-  
tions which shall be attached to the permit covering  
the operation, use and other related matters. Nothing  
in this chapter may be construed to prevent a munici-  
pality from enacting ordinances with respect to auto-  
mobile graveyards and junkyards which concern such  
other standards as the municipality determines rea-  
sonable, including, but not limited to: Conformance  
with state and federal hazardous waste regulations;  
fire safety; traffic safety; levels of noise which  
can be heard outside the premises; distance from ex-  
isting residential or institutional uses; and the ef-  
fect on ground water and surface water, provided that  
municipal ordinances on ground water are no less  
stringent than or inconsistent with rules adopted by  
the Department of Environmental Protection concerning  
automobile graveyards and junkyards. Municipal offi-

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1 cers or county commissioners may consider compliance  
2 with these local ordinances in deciding whether to  
3 grant or deny a permit for an automobile graveyard or  
4 junkyard and in attaching conditions of approval to  
5 the grant of a permit.'

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STATEMENT OF FACT

7 This amendment is in response to recent Law Court  
8 decisions which interpreted the authority of municipi-  
9 pal officers in permitting for automobile graveyards  
10 or junkyards as being limited solely to location and  
11 design criteria. While municipal officers may apply  
12 more stringent restrictions and impose conditions on  
13 the operation of those facilities, the court has  
14 ruled that they may not deny a permit application for  
15 any reason other than a failure to satisfy the loca-  
16 tion and design criteria under the Maine REvised  
17 Statutes, Title 30, section 2454, subsections 1 to 4.

18 This amendment clarifies the ability of municipi-  
19 palities to specify, by ordinance, additional crite-  
20 ria concerning automobile graveyards and junkyards  
21 and requires the municipal officers or county commis-  
22 sioners to consider these criteria in granting or de-  
23 nying a permit or in attaching conditions to a per-  
24 mit. The additional criteria include conformance to  
25 state and federal hazardous waste rules, fire safety,  
26 traffic safety, noise control, conformance with other  
27 local ordinances and regulations and ground water and  
28 surface water considerations. Where a municipality  
29 decides to regulate on the basis of ground water ef-  
30 fects, its ordinance must be at least as strict as  
31 and not inconsistent with Department of Environmental  
32 Protection rules.

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1           The amendment also clarifies the scope and nature  
2   of the conditions which a municipality may attach to  
3   the granting of a permit.

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3833052385

Reported by Senator Stover for the Committee on Local and County  
Government. Reproduced and Distributed Pursuant to Senate Rule  
12.

(5/29/85)

(Filing No. S-149)