

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 745

6
7 H.P. 525

House of Representatives, February 27, 1985

8 Reference to the Committee on Energy and Natural Resources suggested
9 and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Cooper of Windham.

11 Cosponsored by Senator Usher of Cumberland, Representative Holloway
of Edgecomb and Representative Jacques of Waterville.

12 STATE OF MAINE
13

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

17 AN ACT to Prevent Well Water Contamination.
18

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

21 Sec. 1. 22 MRSA §42, sub-§3, as amended by PL
22 1983, c. 796, §8, is further amended to read:

23 3. Plumbing and subsurface sewage disposal. The
24 department shall adopt rules relating to plumbing and
25 subsurface sewage disposal systems and the installa-
26 tion and inspection thereof consistent with Title 30,
27 sections 3221 to 3225 and Title 32, sections 3301 to
28 3507; and shall hold hearings on the first Tuesday of
29 February of each year for the purpose of considering
30 changes in the rules pertaining to plumbing and sub-
31 surface sewage disposal systems and the installation
32 and inspection thereof. These rules ~~may~~ shall regu-
33 late the location of water supply wells to provide
34 minimum separation distances from subsurface sewage
35 disposal systems. The department may require a deed
36 covenant or deed restriction when determined neces-
37 sary.

1 Any person who violates the rules adopted under this
2 subsection, or who violates a municipal ordinance
3 adopted pursuant to Title 30, section 3221, or uses a
4 subsurface sewage disposal system not in compliance
5 with rules applicable at the time of installation or
6 modification shall be penalized in accordance with
7 the provisions of Title 30, section 4966. The de-
8 partment or a municipality may seek to enjoin viola-
9 tions of the rules or municipal ordinances. In the
10 prosecution of a violation by a municipality, the
11 court shall award reasonable attorney's fees to a mu-
12 nicipality if that municipality is the prevailing
13 party, unless the court finds that special circum-
14 stances make the award of these fees unjust. The
15 rules adopted by the department shall provide with
16 respect to the repair and replacement of any part or
17 parts of existing subsurface sewage disposal systems
18 serving family dwellings inhabited by no more than 2
19 individual families that the local plumbing inspector
20 may waive the site evaluation requirements, provided
21 that the waiver will not result in violations of oth-
22 er regulations or ordinances adopted pursuant to the
23 Plumbing Code. He may not waive the site evaluation
24 requirement for disposal systems within 100 feet of
25 any pond or river subject to shoreland zoning laws.

26 Sec. 2. 30 MRSA §3221, sub-§1, as amended by PL
27 1977, c. 694, §534, is further amended to read:

28 1. Municipal ordinances. Municipalities may by
29 ordinance, prescribe regulations for wells used for
30 private water supply, the materials, construction,
31 alteration and inspection of all pipes, tanks, fau-
32 cets, valves and other fixtures by and through which
33 water, waste or sewage is used or carried, and for
34 the materials and sizes of pipe which carry water to
35 all plumbing fixtures; provided that all permit fees
36 established shall be the same as those fees estab-
37 lished by the Department of Human Services.

38 A. Any regulation, which exceeds the minimum re-
39 quirements of the rules and regulations of the
40 Department of Human Services relating to plumbing
41 as promulgated pursuant to Title 22, enacted by a
42 municipality shall not become effective until ap-
43 proved by the Department of Human Services. The
44 municipality shall submit the proposed regulation

1 to the Department of Human Services within 30
2 days following its adoption. The Department of
3 Human Services shall approve or disapprove the
4 proposed regulation within 30 days of the receipt
5 thereof. If the Department of Human Services
6 fails to approve or disapprove the proposed mu-
7 nicipal regulation within 30 days of the receipt
8 thereof, the proposed regulation shall be deemed
9 to be approved. If the department disapproves of
10 any proposed municipal regulation, the municipal-
11 ity may request a hearing in conformity with the
12 Maine Administrative Procedure Act, Title 5,
13 chapter 375.

14 B. Any municipality may provide, by an ordinance
15 enacted after notice and hearing by its municipal
16 officers, that the plumbing inspector may waive
17 the site evaluation requirement as provided in
18 Title 22, section 42, subsection 3. They shall
19 notify the department in writing of the date of
20 the adoption of the ordinance. Any person ag-
21 grieved by the granting of a waiver may appeal to
22 the municipality and request a public hearing on
23 the issue of whether or not the waiver shall be
24 permitted.

25 Sec. 3. 30 MRSA §3221, sub-§3, as enacted by PL
26 1973, c. 521, §4, is amended to read:

27 3. Plumbing defined. For the purposes of this
28 subchapter, "plumbing" means the installation, remov-
29 al, alteration or repair of wells, pipes, fixtures
30 and other apparatus for bringing in the water supply
31 and removing and disposing of liquid and
32 water-carried wastes, including the necessary piping
33 and water connections to all types of domestic heat-
34 ing apparatus using water and subsurface sewage dis-
35 posal systems. Except for the initial connection to a
36 potable water supply and the final connection that
37 discharges indirectly into a public or private dis-
38 posal system, the following are excluded from this
39 definition: All piping, equipment or material used
40 exclusively for incorporation of liquids or gases in-
41 to any product or process for use in the manufactur-
42 ing or storage of any product, including product de-
43 velopment, or for the installation, alteration, re-
44 pair or removal of automatic sprinkler systems in-

1 stalled for fire protection only or their related ap-
2 purtenances or standpipes connected to automatic
3 sprinkler systems or overhead.

4 Sec. 4. 30 MRSA §3223, sub-§1, as amended by PL
5 1977, c. 271, §2, is further amended to read:

6 1. Permits required. A permit shall be required
7 for the development and installation of a private wa-
8 ter supply, including, but not limited to, wells and
9 springs. No pipes, tanks, faucets, valves or other
10 fixtures not related to a manufacturing or industrial
11 operation or the waste from such operation located on
12 or about such operation shall be placed in any build-
13 ing, nor shall any septic tank or other system of
14 subsurface sewage disposal be installed to receive
15 the drainage from such plumbing, except to repair
16 leaks or to replace an existing fixture, except a wa-
17 ter heater, to be used for the same purpose, unless a
18 permit for installation of such work has been issued
19 by the municipal plumbing inspector. If such work
20 does not begin within 6 months after the date of is-
21 suing its permit, the permit shall be invalid; other-
22 wise, the permit shall be valid until the completion
23 of such work.

24 Sec. 5. 30 MRSA §3223, sub-§5 is enacted to
25 read:

26 5. Protection of permit priviledges. No person
27 may:

28 A. Install a subsurface sewage disposal system
29 which prevents the installation of a well for
30 which a valid permit has been issued; or

31 B. Install a well which prevents the installa-
32 tion of a subsurface sewage disposal system for
33 which a valid permit has been issued.

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STATEMENT OF FACT

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The purpose of this bill is to establish the necessary municipal authority to regulate the location of wells. This authority complements the existing authority of the Department of Human Services to regulate private water supply wells.

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The bill also protects the rights of a person who has obtained the necessary permit for a well, but has not yet installed it.

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