

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 771

6
7 S.P. 282

In Senate, February 27, 1985

8 Referred to the Committee on Energy and Natural Resources. Sent down
9 for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Brown of Washington.

Cosponsored by Representative Ridley of Shapleigh.

11
12 STATE OF MAINE
13

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

17 AN ACT to Clarify Certain Aspects of Mineral
18 Exploration, Development and
19 Disclosure.
20

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

23 Sec. 1. 12 MRSA §541-A is enacted to read:

24 §541-A. Definitions

25 As used in this chapter, unless the context oth-
26 erwise indicates, the following terms have the fol-
27 lowing meanings.

28 1. Development. "Development" includes all of
29 the methods used in the preparation of a known and
30 presumed economically extractable ore deposit for
31 mining.

32 2. Director. "Director" means the Director of
33 the Maine Geological Survey.

1 3. Exploration. "Exploration" includes all of
2 the manual, mechanical, electronic or chemical meth-
3 ods of determining the presence, size and unit value
4 of a mineral deposit.

5 4. Explosives. "Explosives" means explosive ma-
6 terials which are used to prospect, explore, develop
7 or mine a mineral deposit.

8 5. Machinery. "Machinery" means equipment or
9 machinery, exclusive of vehicles, which are used to
10 prospect, explore, develop or mine a mineral deposit.

11 6. Minerals. "Minerals" include all naturally
12 occurring mineral deposits, including hydrocarbons
13 and peat, but does not include sand, gravel and wa-
14 ter.

15 7. Mining. "Mining" means all of the extractive
16 and beneficiative processes necessary to remove and
17 prepare for market a mineral deposit.

18 8. Ore. "Ore" means any mineral or an aggregate
19 of mirerals which can be worked commercially.

20 9. Person. "Person" includes individuals, part-
21 nerships, corporations and other entities.

22 10. Prospecting. "Prospecting" means a prelimi-
23 nary examination of an area for the purpose of dis-
24 covering the possible presence of valuable minerals.

25 11. Royalty. "Royalty" means the amount paid to
26 the State for the right to remove minerals from state
27 land, including minimum and preproduction payments.

28 12. State lands. "State lands" means all lands
29 owned or held in trust by the State, including inland
30 and tidal submerged lands and waters.

31 Sec. 2. 12 MRSA §543-A is enacted to read:

32 §543-A. Rules

33 All rules under this subsection shall be promul-
34 gated pursuant to Title 5, chapter 375, subchapter
35 II.

1 amount charged for permits, the duration of permits
2 and other matters related to the exploration and
3 mining of hydrocarbons.

4 §550. Claims

5 1. Location of claim and maintenance of rights
6 of possession. Any person or corporation who has se-
7 cured a prospector's permit may locate one or more
8 claims by defining the boundary lines of the claim or
9 claims. No claim may be greater than 1,500 feet in
10 length by 600 feet in width. The location or record
11 of any claim shall be construed to include all sur-
12 face found within the surface boundary lines thereof
13 and all ledges throughout their entire vertical
14 depth, but shall not include any portion of those
15 ledges beyond the end and side lines of that claim,
16 or timber or growth on that claim.

17 2. Identification of claim. As nearly as cir-
18 cumstances will permit, a claim shall be staked out
19 in the following manner, namely:

20 A. By erecting a post or other reasonably perma-
21 nent monument at each of the 4 corners of the
22 claim and numbering the posts or monuments con-
23 secutively, one through 4, beginning in the most
24 northeasterly corner and proceeding about the
25 claim in a clockwise direction. Every post or
26 monument shall stand not less than 4 feet above
27 the ground; shall be not less than 4 inches in
28 diameter and shall bear the following informa-
29 tion:

30 (1) Post or monument number one. The name
31 of the locator, the number of his
32 prospector's permit, the date of the staking
33 and if the claim is staked on behalf of an-
34 other person, the name of the other person
35 and the number of his prospector's permit;
36 or

37 (2) Posts or monument numbers 2, 3 and 4.
38 The name of the locator and if the claim is
39 staked for another person, his name;

1 B. By plainly marking the trees with paint and
2 by trimming the underbrush along the boundary
3 lines of the claim to indicate clearly the out-
4 lines of the claim. Where there are no trees or
5 underbrush, by piling stones or placing pickets
6 at reasonable intervals along the boundary lines
7 of the claim; or

8 C. By establishing post or buoy markers to wit-
9 ness claim corners which fall in a body of water,
10 by placing posts on dry land and marking thereon
11 exact distances and directions to overwater claim
12 corners, or by such other methods as the survey
13 may be regulation established.

14 3. Right of possession. Any person who has lo-
15 located and recorded any claim or claims shall, subject
16 to the provisions of this subchapter, have the right
17 of possession of the premises covered by that claim
18 or claims, for the purpose of conducting thereon ex-
19 ploration activities. This right of possession shall
20 be alienable in the same manner as real estate. No
21 alienation or transfer of the rights of possession
22 conferred by a located and recorded claim may be ef-
23 fective until the transferor shall have notified the
24 director of the transfer and shall have received an
25 acknowledgement by the director in writing of receipt
26 of the notification. The director shall acknowledge
27 within 30 days of receipt of the notice.

28 4. Recording of claim. No person may have the
29 right of possession of any claim until that claim
30 shall have been recorded with the director. The
31 prospector who first records with the director a val-
32 idly staked claim or claims in any area shall be
33 deemed the claimholder of record for purposes of this
34 subchapter. This record shall contain:

35 A. The name of the locator;

36 B. A general description of the minerals or met-
37 als sought;

38 C. The date of the location and description of
39 the location of that claim, with reference to the
40 natural object or permanent monument as will
41 identify the claim;

1 D. The location and description of each corner,
2 with the markings thereon;

3 E. As outline sketch or plan of the claim show-
4 ing with reasonable accuracy claim corners, wit-
5 ness points and prominent natural objects or per-
6 manent structural features, so that the claim may
7 be located on the ground by the director or his
8 representatives;

9 F. The fee for recording, renewing or transfer-
10 ring a claim shall be \$10;

11 G. A claim shall be in effect until December
12 31st following the date of recording and shall be
13 extended for further 12-month periods, not ex-
14 ceeding 4 in number, upon application to the di-
15 rector on or before December 31st, upon payment
16 of the appropriate fee and upon filing an affida-
17 vit that during the period about to expire inves-
18 tigatory work has been performed on the claim to
19 the extent of not less than 50 work hours or \$250
20 worth of work. The director may, upon petition
21 of the claimholder, allow all or part of any such
22 excess expenditure to be credited to assessment
23 requirements in the following years on the claim.
24 Where the holder of the claim has 2 or more con-
25 tiguous claims, the required amount of work for
26 all the claims may be performed on one or more of
27 the contiguous claims. The work done shall be
28 described in the affidavit and shall include only
29 work which tends to reveal such characteristics
30 of the material sought as length, width, depth,
31 thickness, tonnage and mineral or metal content
32 or, with respect to nonmetallic minerals, other
33 physical characteristics of the deposit relating
34 directly to the commercial exploitation of the
35 deposit. If the date of recording a claim is af-
36 ter the 30th day of September in any year, the
37 director shall extend that claim until the 31st
38 day of December of the next ensuing year without
39 requiring the affidavit, upon payment by the
40 locator of the required renewal fee. If the nor-
41 mal exploration plans on overwater claims or a
42 claim group, including drilling or geophysical
43 work which requires an ice cover, the director
44 may allow the exploration expenditure to be ap-

1 plied either to a present year or the subsequent
2 year, if requested by the claimholder. Extension
3 will be granted only to those claims which are of
4 record on or before September 30th of the year in
5 which the request is made;

6 H. No claim may be held through authority of the
7 prospector's permit for a period of more than 5
8 years from the initial date of recording. By the
9 end of the 5-year period, any title to the claim
10 will lapse unless the right to the claim has been
11 established by a license to mine or mining lease
12 issued by the State under this subchapter. The
13 director may, upon application and for good
14 cause, grant an extension for an additional period
15 not to exceed 2 years. Upon lapse or upon
16 filing of notice of abandonment of a claim, no
17 person holding the claim immediately prior to
18 date of lapse or abandonment or his representa-
19 tive, partner, affiliate or leasing associate may
20 relocate on the same area for a period of 60
21 days; and

22 I. The failure to comply with any of the re-
23 quirements for renewing under paragraph G shall
24 operate as a forfeiture of the claim or claims.
25 Written notice of that forfeiture shall be sent
26 by registered or certified mail to the claimant's
27 last known address. Any claimant who is ag-
28 grieved may file a written petition for a hearing
29 before the director within 14 days after notice
30 of forfeiture has been given. If the petition
31 for a hearing is filed with the director within
32 the 14-day period, the director shall within 30
33 days grant a hearing on the forfeiture and give
34 the claimant 10 days' notice of the time and
35 place of the hearing. For a good cause, the di-
36 rector may extend the time for filing the peti-
37 tion. Any notice of forfeiture sent or hearing
38 held under this subsection shall otherwise con-
39 form to the provisions of Title 5, chapter 375,
40 subchapter IV.

41 Judicial review of final action by the director may
42 be obtained pursuant to the provisions of Title 5,
43 chapter 375, subchapter VII, except that the decision
44 of the Superior Court shall be final. During the

1 pendency of all proceedings under this subsection, no
2 person may lay claim to the area of dispute. The di-
3 rector may perform the duties of this subsection per-
4 sonally or through his designee.

5 §550-A. Mining under bodies of water

6 Where any mineral is situated under or in the bed
7 of a stream or lake and for the efficient working of
8 the mineral deposit, it is necessary to divert the
9 water of the stream or drain any lake the director
10 may permit the same to be done, subject to those pro-
11 visions for the benefit of any persons who are enti-
12 tled to the use of the water of the stream or lake in
13 its natural state, as to the director may seem just
14 and expedient.

15 §550-B. Annual report

16 1. Report required. Any person with a
17 prospector's permit, a recorded claim, license to
18 mine or mining lease engaged in exploration, mine de-
19 velopment or mining under this subchapter shall file
20 an annual report with the director in the month of
21 January following the year the operation was carried
22 on.

23 2. Information. This report shall contain as a
24 minimum the following information:

25 A. The name and address of the person conducting
26 exploration and, if the person is a corporation,
27 the names and addresses of the parent and any
28 subsidiaries or domestic affiliates of the corpo-
29 ration engaged in exploration activities in this
30 State;

31 B. The names and addresses of the owners of the
32 lands in this State on which exploration activi-
33 ties have been conducted;

34 C. The specific location, inclination and the
35 collar azimuth of completed drill holes;

36 D. The date core samples and drill cuttings
37 which have been collected or prepared, were ob-
38 tained;

1 E. The approximate elevation of the collars of
2 drill holes;

3 F. The percent core recovery log; and

4 G. A noninterpretive lithologic description of
5 all portions of core samples and of all drill
6 cuttings, if any noninterpretive lithologic de-
7 scriptions of drill cuttings are prepared, ex-
8 cluding mention of metalliferous minerals found
9 in the sample and cuttings.

10 3. Samples. The state geologist may require
11 that designated representative and reasonable quanti-
12 ties of soil, rock, core or drill cutting samples ob-
13 tained by a person during exploration be retained by
14 the licensee and released to the director for pur-
15 poses of geological study. The director shall design-
16 ate the samples and the quantities to be retained
17 and shall notify the permittee by December 31st of
18 the year in which a report under subsection 1 is sub-
19 mitted. The permittee shall release the samples no
20 later than July 1st of the year following the year in
21 which an exploration lease for the site where the
22 samples were obtained has expired, but release shall
23 be no later than 10 years after the commencement of
24 drilling at the site.

25 §550-C. Violations; termination

26 In the event that any prospector, claimant, li-
27 censee or lessee violates any of the provisions of
28 this subchapter or any rule of the survey, the direc-
29 tor shall notify such prospector, claimant, licensee
30 or lessee, as the case may be, of that alleged viola-
31 tion and of the nature of the alleged violation, by
32 sending the notice by registered or certified mail to
33 him at the last address known to the director. If
34 the violation is not remedied within 30 days after
35 the date of mailing the notice, the permit, claim,
36 license or lease of the violator in existence at the
37 time of the violation may be terminated by the direc-
38 tor by giving written notice of termination in the
39 same manner specified for notice of violation. For
40 cause, the director may extend such further time for
41 compliance as he may determine. Any person who is
42 aggrieved may file a written petition for a hearing

1 before the director within 30 days of the date of the
2 giving of written notice of termination by the direc-
3 tor. The hearing shall take place within 30 days of
4 receipt of the petition and a decision rendered by
5 the director within 30 days following the final ad-
6 journment of the hearing. The notice of termination
7 sent and hearing held under this subsection shall
8 otherwise conform to Title 5, chapter 375, subchapter
9 IV. Judicial review of final action by the director
10 may be obtained pursuant to Title 5, chapter 375,
11 subchapter VII.

12 §550-D. Injunctions against violation

13 Whenever it appears that any person is violating
14 or threatening to violate any provision of this sub-
15 chapter, or any rule, or order of the survey, the di-
16 rector may seek an injunction against that person in
17 the Superior Court of the county in which the office
18 of the survey is located or of any county where the
19 violation occurs or is threatened, or in the county
20 in which the defendant resides or in which any de-
21 fendant resides if there is more than one defendant,
22 to restrain that person from continuing that viola-
23 tion or from carrying out the threat of violation.
24 In any such action, the court shall have jurisdiction
25 to grant to the director, without bond or other un-
26 dertaking, such prohibitory or mandatory injunctions
27 as the facts may warrant, including temporary re-
28 straining orders and preliminary injunctions.

29 §550-E. Compliance with regulatory laws

30 Nothing in this subchapter relieves any mining
31 licensee or lessee from the obligation to comply with
32 applicable environment or other regulatory laws and
33 regulations of the State.

34 STATEMENT OF FACT

35 The purpose of this bill is to clarify the laws
36 dealing with mineral exploration, development and

1 disclosure. The bill establishes a permit procedure
2 for property and mining and a procedure to deal with
3 claims.

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