

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 (After Deadline)  
3 SECOND REGULAR SESSION  
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE  
6

7 Legislative Document

No. 2307

8  
9 H.P. 1634

House of Representatives, April 1, 1986

10 Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 27.

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

12 EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

13 Cosponsored by Senator Carpenter of Aroostook, Representative  
Tammaro of Baileyville and Representative Moholland of Princeton.

14 STATE OF MAINE  
15

16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-SIX  
18

19 AN ACT Relating to Air Emission Licenses in  
20 Nonattainment Areas.  
21

22 Emergency preamble. Whereas, Acts of the Legis-  
23 lature do not become effective until 90 days after  
24 adjournment unless enacted as emergencies; and

25 Whereas, certain pending applications for air  
26 quality licenses are essential for continued stabili-  
27 ty in the economic conditions of eastern Maine; and

28 Whereas, in the judgment of the Legislature,  
29 these facts create an emergency within the meaning of  
30 the Constitution of Maine and require the following  
31 legislation as immediately necessary for the preser-  
32 vation of the public peace, health and safety; now,  
33 therefore,

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

1           Sec. 1. 38 MRSA §590, last ¶, as enacted by PL  
2 1979, c. 381, §14, is repealed and the following en-  
3 acted to read:

4           The Legislature recognizes that uncertainties as  
5 well as a high level of conservatism exists in  
6 predicting ambient air quality concentrations based  
7 upon computer dispersion modeling. Furthermore, data  
8 necessary for refined computer modeling may not be  
9 available. Accordingly, notwithstanding this section  
10 or section 591, the board shall take these factors  
11 into account when issuing an air emission license and  
12 may license a source conditioned upon additional mod-  
13 eling or monitoring to confirm that ambient air qual-  
14 ity standards will be met or that additional require-  
15 ments must be imposed to control emissions so that  
16 ambient air quality standards will not be violated.

17           Sec. 2. 38 MRSA §591, as amended by PL 1983, c.  
18 835, §3, is further amended by adding at the end a  
19 new paragraph to read:

20           Nothing in this chapter is intended to prohibit  
21 the issuance of an air emission license for a source  
22 in an area designated as nonattainment pursuant to  
23 section 583-B, subsection 4, provided that, upon op-  
24 eration, there will be a reduction in emissions of  
25 the nonattainment pollutant and that other sources of  
26 the pollutant in the control of the applicant in the  
27 nonattainment area are being, or will be, controlled  
28 in a manner that represents reasonable further  
29 progress towards attainment of the standard. No  
30 rules prohibiting the issuance of such a license may  
31 be adopted by the board.

32           **Emergency clause.** In view of the emergency cited  
33 in the preamble, this Act shall take effect when ap-  
34 proved.

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STATEMENT OF FACT

2           This bill makes it clear that licenses can be  
3 granted to emission sources presently existing or  
4 proposed for construction in nonattainment areas.  
5 The Department of Environmental Protection has appar-  
6 ently claimed that its regulations, but not Maine  
7 law, prohibit such licenses. The Federal Clean Air  
8 Act specifically provides procedures for licensing  
9 new sources in nonattainment areas and there is no  
10 reason to have a contrary interpretation in Maine  
11 which would result in a situation where a proposed  
12 new facility, with modern emission controls, could  
13 not be constructed to replace an older, greater  
14 polluting source in a nonattainment area.  
15 Ironically, the cause for nonattainment is often be-  
16 yond the control of the source seeking a license, for  
17 instance, where road dust from local street sanding  
18 operations has resulted in the nonattainment designa-  
19 tion. This bill follows the federal procedure which  
20 allows licensing if the new source will result in re-  
21 duced emissions and other sources are being reason-  
22 ably controlled to lead to attainment.

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