

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE
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5 Legislative Document

NO. 139
6

7 H.P. 114 House of Representatives, January 28, 1987
8 Referred to the Committee on Energy and Natural
Resources. Sent up for concurrence and ordered printed.
9 EDWIN H. PERT, Clerk
10 Presented by Representative MICHAUD of East Millinocket.
Cosponsored by Representatives HOLLOWAY of Edgecomb,
COLES of Harpswell, and Senator TUTTLE of York.

11
12 STATE OF MAINE
13

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

17 AN ACT to Increase Local Control of Certain
18 Waste Water Discharges.
19

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

22 Sec. 1. 30 MRSA §4966, first ¶, as amended by PL
23 1985, c. 612, §17, is further amended to read:

24 The following provisions shall apply to enforce-
25 ment of land use laws and ordinances or regulations
26 which are administered and enforced primarily at the
27 local level, including shoreland zoning ordinances
28 adopted pursuant to Title 12, sections 4811 to 4817,
29 including those which were state-imposed; the plumb-
30 ing and subsurface waste water disposal rules adopted
31 by the Department of Human Services pursuant to Title
32 22, section 42, including the land area of the State
33 which is subject to the jurisdiction of the Maine

1 Land Use Regulation Commission, laws pertaining to
2 public water supplies, Title 22, sections 2624, 2647
3 and 2648; local ordinances adopted pursuant to Title
4 22, section 2642; local land use ordinances enacted
5 pursuant to section 1917; local building codes
6 adopted pursuant to sections 1917 and 2151; chapter
7 215, subchapter I, Automobile Junkyards and subchap-
8 ter X, Regulation and Inspection of Plumbing; section
9 4359, malfunctioning subsurface waste water disposal
10 systems; the subdivision law and local subdivision
11 ordinances adopted pursuant to section 1917 and sub-
12 division regulations adopted pursuant to section
13 4956; and local zoning ordinances adopted pursuant to
14 section 1917 and in accordance with section 4962; and
15 waste water discharge licenses issued pursuant to Ti-
16 tle 38, section 413, subsection 8.

17 Sec. 2. 30 MRSA §4966, sub-§3, ¶G is enacted to
18 read:

19 G. The penalties for violations of waste dis-
20 charge licenses issued by the municipality pursu-
21 ant to Title 38, section 413, subsection 8, is as
22 prescribed in Title 38, section 349.

23 Sec. 3. 38 MRSA §413, sub-§8 is enacted to read:

24 8. Municipalities may apply to the board for au-
25 thority to issue licenses for the discharge of not
26 more than 2,500 gallons a day of treated domestic
27 waste water to surface waters within their jurisdic-
28 tion and for the inspection and enforcement of the
29 licenses, in conformance with this chapter and appli-
30 cable regulation of the board.

31 Upon issuance of a license, a municipality shall for-
32 ward a copy immediately to the department. Within 30
33 days of the applicant's receipt of a license decision
34 by a municipality, any person aggrieved by the deci-
35 sion may appeal to the board for a review of the de-
36 cision.

37 Municipalities delegated pursuant to this section may
38 by ordinance prescribe standards for issuance of
39 waste discharge licenses and for minimum performance
40 and maintenance of treatment systems as may be neces-
41 sary to carry out the intent of this subsection. No

1 ordinance may provide for less than the minimum re-
2 quirements of the regulations promulgated by the de-
3 partment under this chapter.

4 Notwithstanding section 352, municipalities may es-
5 tabish reasonable fees, not to exceed \$200 per year,
6 to defray the costs of discharge license issuance,
7 inspection and testing. The department shall not
8 collect fees associated with those licenses delegated
9 under this subsection.

10 The department may provide municipalities with tech-
11 nical assistance in their licensing, inspections and
12 enforcement programs.

13 If at any time the board determines that a municipal-
14 ity may be failing to exercise its license-granting
15 authority in accordance with its approval procedures
16 or the purposes of this chapter and rules promulgated
17 by the board, it shall notify the municipality of the
18 specific alleged deficiencies and shall order a pub-
19 lic hearing, of which adequate public notice shall be
20 given, to be held in the municipality to solicit pub-
21 lic or official comment on those alleged deficien-
22 cies. Following the hearing, if it finds such defi-
23 ciencies, it may revoke the municipality's
24 license-granting authority. The municipality may re-
25 apply for authority at any time. Nothing in this
26 subsection limits the board's or department's author-
27 ity to inspect or initiate enforcement action against
28 any discharge within a municipality.

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STATEMENT OF FACT

2 This bill is intended to allow municipalities
3 which so desire to assume responsibility for licens-
4 ing, inspection and enforcement of certain waste wa-
5 ter discharges now administered by the Department of
6 Environmental Protection. There are now nearly 3,000
7 licensed discharges from residential and commercial
8 sources with approximately 300 new applications being
9 made annually. In addition to initial licensing and
10 periodic license renewal, each discharge requires in-
11 spection and testing to assure it is functioning
12 properly. Given resource limitations within the de-
13 partment, and the large number of licenses, it is
14 difficult to provide timely and in-depth license
15 evaluations and inspection programs.

16 Through providing the option for municipalities
17 to assume these functions, it is believed that li-
18 censing efficiency and effectiveness can be greatly
19 increased by utilizing local control, knowledge of
20 environment and management objectives. Specifically,
21 this bill would allow for delegation of licensing,
22 inspection and enforcement responsibility to inter-
23 ested municipalities, while maintaining consistency
24 with statewide criteria and objectives.

25 Municipalities could adopt ordinances as needed
26 and collect reasonable fees to defray the costs of
27 administering the program. The department would make
28 available technical assistance, information and sup-
29 port for the municipalities.

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