

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1068

H.P. 796 House of Representatives, April 1, 1987
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative KIMBALL of Buxton.

Cosponsored by Representatives MICHAUD of East
Millinocket, DIAMOND of Bangor and Senator BLACK of Cumberland.

STATE OF MAINE

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

**AN ACT to Protect the State's Freshwater
Great Ponds and Rivers.**

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

**Sec. 1. 22 MRSA §42, sub-§3, as amended by PL
1985, c. 612, §1, is further amended to read:**

3. Plumbing and subsurface waste water disposal.
The department shall adopt minimum rules relating to
plumbing and subsurface sewage disposal systems and
the installation and inspection thereof consistent
with Title 30, chapter 215, subchapter X, and Title
32, chapter 49, but this does not preempt the author-
ity of municipalities under Title 30, section 1917,
to adopt more restrictive ordinances; and shall hold
hearings on the first Tuesday of February of each

1 year for the purpose of considering changes in the
2 rules pertaining to plumbing and subsurface sewage
3 disposal systems and the installation and inspection
4 thereof. These rules may regulate the location of
5 water supply wells to provide minimum separation dis-
6 tances from subsurface sewage disposal systems. The
7 department may require a deed covenant or deed re-
8 striction when determined necessary.

9 Any person who violates the rules adopted under this
10 subsection, or who violates a municipal ordinance
11 adopted pursuant to Title 30, section 3221, or uses a
12 subsurface waste water disposal system not in compli-
13 ance with rules applicable at the time of installa-
14 tion or modification or who uses a subsurface waste
15 water disposal system not in compliance with rules
16 applicable at the time of transfer of a property on
17 which a subsurface waste water disposal system is lo-
18 cated within a shoreland area, as set out by Title
19 38, section 435, without a permit issued under Title
20 30, section 3223-A, shall be penalized in accordance
21 with Title 30, section 4966. Enforcement of the
22 rules shall be the responsibility of the municipali-
23 ties rather than the department. The department or a
24 municipality may seek to enjoin violations of the
25 rules or municipal ordinances. In the prosecution of
26 a violation by a municipality, the court shall award
27 reasonable attorney's fees to a municipality if that
28 municipality is the prevailing party, unless the
29 court finds that special circumstances make the award
30 of these fees unjust.

31 **Sec. 2. 30 MRSA §3223-A, sub-§1, ¶¶B and C, as**
32 **enacted by PL 1985, c. 612, §11, are amended to read:**

33 B. The installation of a subsurface waste water
34 disposal system or components, as defined in sec-
35 tion 3221, subsection 4; and

36 C. The conversion of a seasonal dwelling, as de-
37 scribed in this paragraph. Prior to converting a
38 seasonal dwelling which is located in the shore-
39 land zone, as defined in Title 38, section 435,
40 to a year-round or principal dwelling, a conver-
41 sion permit is required from the local plumbing
42 inspector. For the purposes of this paragraph,
43 a seasonal dwelling is a dwelling which has not

1 been utilized as a principal or year-round dwell-
2 ing during the period from 1977 to 1981. Evidence
3 of use as a principal or year-round residence in-
4 cludes, but is not limited to, the listing of
5 that residence as an occupant's legal residence
6 for the purpose of either voting, filing a state
7 tax return or automobile registration or the oc-
8 cupancy of that residence for a period exceeding
9 7 months in any calendar year.

10 This paragraph may not be construed to require a
11 permit for any dwelling which will be occupied
12 seasonally, is not the principal dwelling place
13 of the occupant or has the disposal system lo-
14 cated outside the shoreland zoned area; and

15 Sec. 3. 30 MRSA §3223-A, sub-§1, ¶D is enacted
16 to read:

17 D. The use of a subsurface waste disposal system
18 after transfer of a property on which a subsur-
19 face waste water disposal system is located with-
20 in a shoreland area as set out in Title 38, sec-
21 tion 435.

22 Sec. 4. 30 MRSA §3223-A, sub-§2-A is enacted to
23 read:

24 2-A. Permit for system use after property trans-
25 fer. A permit for the use of a subsurface waste dis-
26 posal system after transfer of property on which a
27 subsurface waste water disposal system is located
28 within a shoreland area as set out in Title 38, sec-
29 tion 435, shall be issued when the following condi-
30 tions are met:

31 A. The existing subsurface waste water disposal
32 system has been inspected by a plumbing inspec-
33 tor. The inspection shall consist of identify-
34 ing:

35 (1) The type of system;

36 (2) The location of the system;

37 (3) The date of the last cleaning or in-
38 spection;

1 (4) Any evidence of malfunction;

2 (5) The environmental impact of the system,
3 if any;

4 (6) The proposed use of the system; and

5 (7) The demand on the system;

6 B. The local plumbing inspector determines that
7 the system is adequate for the intended use. In
8 judging the adequacy of the system, the inspector
9 shall consider the actual evidence of system mal-
10 function and the environmental impact of the sys-
11 tem, if any. If the system is judged to be inad-
12 equately, the plumbing inspector shall declare the
13 system to be a malfunctioning system subject to
14 section 4359;

15 C. The findings and recommendations of the local
16 plumbing inspector have been reviewed by the De-
17 partment of Human Services for compliance with
18 the State Plumbing Code. The department shall
19 complete its review within 30 days of the receipt
20 of the plumbing inspector's recommendation; and

21 D. Forms; guidelines. The Department of Human
22 Services shall establish, print and distribute to
23 municipal officers application forms and guide-
24 lines.

25 If the department concurs with that recommendation,
26 it shall issue a permit for use of the disposal sys-
27 tem. The department shall forward a copy of the ap-
28 proved permit to the Department of Environmental Pro-
29 tection to assist in water quality planning efforts.

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STATEMENT OF FACT

2 This bill requires all subsurface disposal sys-
3 tems within a shoreland area to be certified after
4 property is transferred and before the system can be
5 used. Section 1 sets out the responsibilities for
6 establishing rules and penalties for noncompliance.
7 Section 2 outlines the requirements for an on-site
8 inspection of the system by municipal officials. The
9 Department of Human Services is charged with estab-
10 lishing the guidelines, forms and procedures for car-
11 rying out this program and with responsibility for
12 reviewing the finding of all inspections.

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