

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1327

H.P. 980 House of Representatives, April 22, 1987
Reference to the Committee on Energy and Natural
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative HOLT of Bath.

Cosponsored by Senator MATTHEWS of Kennebec.

STATE OF MAINE

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

AN ACT to Improve Water Quality and Reclaim
Lost Marine Resources.

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

Sec. 1. 38 MRSA §464, sub-§3, ¶C, as enacted by
PL 1985, c. 698, §15, is amended to read:

C. The department shall report annually to each
regular session of the Legislature on the status
of all licensed discharges, including, but not
limited to, discharges from industries, commer-
cial establishments, municipal waste water treat-
ment facilities and private discharges of domes-
tic pollutants.

Sec. 2. 38 MRSA §464, sub-§4, ¶A, as enacted by
PL 1985, c. 698, §15, is amended to read:

1 4. General provisions. The classification sys-
2 tem for surface waters established by this article
3 shall be subject to the following provisions.

4 A. Notwithstanding section 414-A, the board
5 shall not issue a water discharge license for any
6 of the following discharges:

7 (1) Direct discharge of pollutants to wa-
8 ters having a drainage area of less than 10
9 square miles, except that discharges into
10 these waters which were licensed prior to
11 January 1, 1986, shall be allowed to contin-
12 ue only until practical alternatives exist;

13 (2) New direct discharge of domestic
14 pollutants to tributaries of Class-GPA wa-
15 ters;

16 (3) Any discharge into a tributary of GPA
17 waters which, by itself or in combination
18 with other activities, causes water quality
19 degradation which would impair the charac-
20 teristics and designated uses of downstream
21 GPA waters or causes an increase in the
22 trophic state of those GPA waters;

23 (4) Discharge of pollutants to waters of
24 the State which imparts color, taste,
25 turbidity, toxicity, radioactivity or other
26 properties which cause those waters to be
27 unsuitable for the designated uses and char-
28 acteristics ascribed to their class; and

29 (5) Discharge of pollutants to any water of
30 the State which violates sections 465, 465-A
31 and 465-B, except as provided in section
32 451; causes the "pH" of fresh waters to fall
33 outside of the 6.0 to 8.5 range; causes the
34 "pH" of estuarine and marine waters to fall
35 outside of the 7.0 to 8.5 range; or causes
36 fish for human consumption to be injurious
37 to human health as determined by the United
38 States Food and Drug Administration under
39 the procedures established by United States
40 Code, Title 21, section 342 or as determined
41 by the Department of Human Services. The

1 Department of Human Services shall establish
2 a protocol for determining risk in these
3 situations. The protocol shall be promul-
4 gated as a rule in accordance with the Maine
5 Administrative Procedure Act, Title 5, chap-
6 ter 375-F; and

7 (6) New discharges to the surface waters of
8 the State of domestic pollutants which are
9 not conveyed to or treated in municipal or
10 quasi-municipal waste water treatment facil-
11 ities.

12 Sec. 3. 38 MRS A §464, sub-§4, ¶G is enacted to
13 read:

14 G. The term of a license for the discharge of
15 domestic pollutants, except those that are con-
16 veyed to or treated in municipal or quasi-muni-
17 cipal waste water treatment facilities, may not ex-
18 tend or be renewed to extend beyond January 1,
19 1993.

20 Sec. 4. 38 MRS A §466, sub-§9-A is enacted to
21 read:

22 9-A. Quasi-municipal. "Quasi-municipal" means
23 any form of ownership and management by a governmen-
24 tal unit embracing a portion of a municipality, a
25 single municipality or several municipalities which
26 is created by law to deliver public waste water
27 treatment services, but which is not a general pur-
28 pose governmental unit.

29 Sec. 5. Study. The Department of Environmental
30 Protection, in cooperation with the Department of Ma-
31 rine Resources, shall conduct a study of pollutants
32 to the marine surface waters of the State. The de-
33 partment shall assess the impact of the discharges on
34 water quality, fish habitat and shellfish habitat and
35 the shellfishing industry. The study shall include
36 recommendations for improved and alternative treat-
37 ment and discharge methods for industrial, municipal
38 and domestic waste water discharges. The study shall
39 also recommend a program to phase out all currently
40 licensed private discharges of domestic pollutants to
41 the coastal waters by 1993. The department shall sub-

1 mit the report together with its recommendations to
2 the joint standing committee of the Legislature hav-
3 ing jurisdiction over energy and natural resources on
4 or before February 1, 1988.

5 STATEMENT OF FACT

6 Private discharges of domestic wastes to the sur-
7 face waters of the State have severely reduced the
8 economic productivity of the shellfishing industry
9 and, on occasion, the value of shorefront properties
10 and recreational facilities. The sources of water
11 pollutants are frequently referred to as "overboard
12 discharges."

13 These discharges, though nominally licensed by
14 the Department of Environmental Protection, frequent-
15 ly are the source of human health pathogens which
16 force the closure of clam flats and, through the mis-
17 application of chlorine, impose ecological damage.

18 This bill halts the licensing of new overboard
19 discharges of domestic pollutants. The bill also re-
20 quires that the Department of Environmental Protec-
21 tion and the Department of Marine Resources assess
22 the damage created by these discharges and that the
23 departments develop a proposed program for the termi-
24 nation of all existing discharges by 1993. All the
25 data and scientific information necessary to conduct
26 the study is currently available in departmental
27 files. Both departments have personnel who currently
28 spend time on the overboard discharge issue. Devel-
29 opment of a phaseout program will not require addi-
30 tional funds. The proposed program would be submit-
31 ted to the Legislature for approval. The bill estab-
32 lishes a final date of January 1, 1993, for the final
33 termination of all private overboard discharge of do-
34 mestic pollutants.

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