

# MAINE STATE LEGISLATURE

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(After Deadline)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1388

H.P. 1030 House of Representatives, April 29, 1987  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on Energy and Natural  
Resources suggested and ordered printed.  
EDWIN H. PERT, Clerk  
Presented by Representative HOGLUND of Portland.  
Cosponsored by Senator USHER of Cumberland,  
Representatives RAND of Portland and DEXTER of Kingfield.

STATE OF MAINE

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

AN ACT to Provide for Municipal Control of  
Noise Generated by Development.

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2  
3

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

6 Sec. 1. 38 MRSA §481, as amended by PL 1983, c.  
7 513, §1, is further amended by adding at the end a  
8 new paragraph to read:

9 The Legislature further finds that noise gener-  
10 ated at development sites primarily has a geographi-  
11 cally restricted and frequently transient impact  
12 which is best regulated at the municipal level pursu-  
13 ant to a municipality's economic development and land  
14 use plans. It is the intent of the Legislature that  
15 regulation of noise from developments be the respon-

1 sibility of local municipal governments and that the  
2 State regulate the effects of noise on the environ-  
3 ment only when a municipality has not. It is further  
4 the intent of the Legislature that any actions by the  
5 board regulating the effects of noise taken prior to  
6 the effective date of section 482-A is of no force or  
7 effect unless that is consistent with section 482-A.

8 **Sec. 2. 38 MRSA §482-A is enacted to read:**

9 §482-A. Noise effect.

10 A development has met the requirements of section  
11 484, subsection 3, with regard to noise and effect of  
12 noise if the applicable standards set out in this  
13 section are met.

14 1. Municipal standards. The development shall  
15 not exceed the municipal noise standards of the mu-  
16 nicipality in which the development is located, if  
17 the municipality has noise standards adopted pursuant  
18 to Title 30, section 2151 or 4962. The municipal  
19 noise standards shall preempt any noise standard  
20 adopted by the Department of Environmental Protection  
21 or imposed as a condition to a permit issued pursuant  
22 to section 483. Nothing in subsection 2 may be con-  
23 strued as requiring a municipality to adopt noise  
24 standards consistent with the standards stated in  
25 subsection 2.

26 2. No municipal standards. If the municipality  
27 has not adopted municipal noise standards pursuant to  
28 Title 30, section 2151 or 4962, then the development  
29 shall be required to meet the following.

30 A. The component day-night sound level between  
31 June 1st and September 30th from sources emanat-  
32 ing from the development shall not exceed 55 dec-  
33 ibels when determined at a receiving residential  
34 property.

35 B. The average one minute equivalent sound level  
36 measured in any 3-hour period at a receiving res-  
37 idential property and resulting from sound  
38 sources emanating from the development shall not  
39 exceed 65 decibels, or if the ambient hourly  
40 noise level is greater than 55 decibels when mea-

1 sured without contribution from the sounds ema-  
2 nating from the development, then the average  
3 one-minute equivalent sound level measured in any  
4 3-hour period at a receiving residential property  
5 and resulting from sound sources emanating from  
6 the development shall not exceed 10 decibels  
7 above that ambient hourly noise level.

8 C. As used in this subsection, the following  
9 terms have the following meanings.

10 (1) "Ambient noise" means the all encom-  
11 passing noise associated with a given envi-  
12 ronment, being usually a composite of sounds  
13 from many sources near and far.

14 (2) "Day-night sound level" means the  
15 equivalent sound level in decibels measured  
16 for any continuous 24-hour period, obtained  
17 after the addition of 10 decibels to sound  
18 levels in the hours between 10 p.m. and  
19 7 a.m.

20 (3) "Receiving residential property" means  
21 any location on receiving property that is used  
22 for residential purposes and that is within 100  
23 feet of the closest surface of a dwelling unit in  
24 a direction toward the development. "Receiving  
25 residential property" does not include property  
26 developed for residential purposes subsequent to  
27 the development of commercial industrial sites.

28 D. The following developments and activities  
29 shall be exempt from noise regulation:

30 (1) Sounds created by agricultural activi-  
31 ties;

32 (2) Sounds originating from forest harvest-  
33 ing and silvicultural activity;

34 (3) Sounds created by snow removal activi-  
35 ty;

36 (4) Sounds created by any vehicle complying  
37 with the state or federal noise standards  
38 for vehicles;

- 1                   (5) Sounds originating from aircraft in  
2                   flight and sounds that originate at airports  
3                   which are directly related to flight opera-  
4                   tions;
- 5                   (6) Sounds created by surface carriers en-  
6                   gaged in interstate commerce by railroad;
- 7                   (7) Sounds created by warning devices not  
8                   operating continuously for more than 5 min-  
9                   utes or are required by state or federal  
10                  standards;
- 11                  (8) Sounds created by safety and protective  
12                  devices where noise suppression would defeat  
13                  the intent of the device or is not economi-  
14                  cally feasible;
- 15                  (9) Sounds created by emergency equipment  
16                  and work necessary in the interests of law  
17                  enforcement or for the health, safety or  
18                  welfare of the community;
- 19                  (10) Sounds originating from officially  
20                  sanctioned parades and other public events;
- 21                  (11) Sounds emitted from boilers during  
22                  start-up of the boilers, provided that the  
23                  start-up operation is performed during  
24                  day-time hours;
- 25                  (12) Sounds created by commercial water-  
26                  craft;
- 27                  (13) Sounds caused by natural phenomena and  
28                  unamplified human voices;
- 29                  (14) Sounds not electronically amplified  
30                  which are created by or generated at sport-  
31                  ing, amusement and entertainment events, and  
32                  those sounds which are less than 4 hours in  
33                  duration and are created as a consequence of  
34                  permitted activities or are regulated by  
35                  other municipality, state or federal noise  
36                  standards;
- 37                  (15) Sounds created by permanently located  
38                  bells, chimes and carillons;

- 1                   (16) Sounds that originate on construction  
2                   sites or are caused by maintenance activi-  
3                   ties;
- 4                   (17) Noise from existing industrial instal-  
5                   lations which, for over at least the previ-  
6                   ous 3 years, have consistently operated in  
7                   routine normal operation; and
- 8                   (18) Industriál or commercial facilities  
9                   previously established in areas of subse-  
10                   quently developed residential property.
- 11                   E. The Department of Environmental Protection  
12                   shall issue rules consistent with ANSI defini-  
13                   tions, standards and measurement procedures in  
14                   order to effectuate the purposes of this section.

15                                       STATEMENT OF FACT

16                   Noise generated by development only affects a  
17                   limited geographic area and therefore is different  
18                   from air and water pollution. Generally, the impact  
19                   of noise affects only a small section of a municipal-  
20                   ity. Therefore, if a municipality has noise stan-  
21                   dards, their controls should apply and the State does  
22                   not need to be involved. This bill will encourage  
23                   municipalities to establish local controls as they  
24                   plan their future and seek economic development.

25                   The Department of Environmental Protection's at-  
26                   tempts at noise regulation has created confusion and  
27                   uncertainty. This bill provides noise standards for  
28                   developments that are located in municipalities which  
29                   do not now or in the future have their own local  
30                   noise standards.

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