

# MAINE STATE LEGISLATURE

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(After Deadline)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1746

H.P. 1276 House of Representatives, June 4, 1987  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.  
Referred to the Committee on Agriculture. Sent up for  
concurrence and ordered printed. Ordered sent forthwith.  
EDWIN H. PERT, Clerk  
Presented by Representative LISNIK of Presque Isle.  
Cosponsored by Representatives NUTTING of Leeds, RIDLEY  
of Shapleigh, and Senator PERKINS of Hancock.

STATE OF MAINE

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

1 AN ACT to Conserve Agricultural Production  
2 Capability and to Promote Harmony  
3 between Agriculture and Adjacent  
4 Development.  
5

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

8 7 MRSA c. 2-A is enacted to read:

9 CHAPTER 2-A

10 AGRICULTURAL LAND AND ADJACENT DEVELOPMENT

11 §41. Purpose

12 The Legislature declares its intent to be as fol-  
13 lows:

1        1. Production capacity. To conserve agricultur-  
2 al production capacity for present needs and for the  
3 future;

4        2. Harmony. To promote harmony between agricul-  
5 ture and adjacent nonfarm development;

6        3. Responsibility. To recognize the mutual re-  
7 sponsibility of agricultural operators and persons  
8 siting nonfarm development adjacent to farmland to  
9 take steps to accommodate each others' concerns;

10       4. Information. To institute a program whereby  
11 owners of agricultural land may voluntarily ensure  
12 that purchasers of adjacent property will be informed  
13 in advance of purchase of the existence of an adja-  
14 cent farm operation; and

15       5. Distance. Where farmland is registered for  
16 the application of agricultural chemicals by spray  
17 application, to provide some accommodation both for  
18 that activity and for adjacent nonfarm development by  
19 distancing them from each other.

20       §42. Definitions

21       As used in this chapter, unless the context indi-  
22 cates otherwise, the following terms have the follow-  
23 ing meanings.

24       1. Abutting land. "Abutting land" means real  
25 estate which shares a common boundary, or portion of  
26 a boundary, with registered farmland.

27       2. Agricultural chemicals. "Agricultural chemi-  
28 cals" means fungicides, insecticides, herbicides,  
29 pesticides and fertilizers, including lime.

30       3. Apply; applied. "Apply" and "applied," with  
31 respect to agricultural chemicals, means application  
32 of agricultural chemicals to registered farmland by  
33 any method of spray application, whether aerial or on  
34 the ground, including hand-held and portable spray  
35 equipment.

36       4. Common boundary. "Common boundary" means a  
37 single boundary line which marks both a boundary of

1 registered farmland and a boundary of abutting land.  
2 Where registered farmland and abutting land are sepa-  
3 rated by a road, their common boundary shall be the  
4 boundary of the registered farmland.

5 5. Farmland. "Farmland" means any tract or  
6 tracts of land, including woodland or wasteland, of  
7 at least 10 contiguous acres on which farming or ag-  
8 ricultural activities have produced a gross income  
9 per year in one of the 2 or 3 of the 5 calendar years  
10 preceding the date of application for classification  
11 of at least:

12 A. One thousand dollars for 10 acres; and

13 B. One hundred dollars per acre for each acre  
14 over 10, with the total income required not to  
15 exceed \$2,000.

16 Gross income as used in this section includes the  
17 value of any commodities produced for consumption by  
18 the farm household.

19 6. Inconsistent development upon or use of.  
20 "Inconsistent development upon or use of" means de-  
21 velopment upon or use of land which is:

22 A. Initiated after the effective date of this  
23 chapter;

24 B. Within 150 feet of a common boundary between  
25 the land in question and registered farmland on  
26 which farmland agricultural chemicals are applied  
27 or intended to be applied within one year; and

28 C. Of any of the following kinds or used for any  
29 of the following purposes:

30 (1) Residential buildings;

31 (2) School buildings and any playgrounds,  
32 athletic fields or other school facilities  
33 designed for use by children in the vicinity  
34 of school buildings;

35 (3) Commercial or other buildings for human  
36 use, including, without limitation, places

1 of business, places of worship and other  
2 commercial and institutional buildings;

3 (4) Recreational areas open to public ac-  
4 commodation, including, without limitation,  
5 public and commercial campgrounds, picnic  
6 areas, roadside rest areas, publicly owned  
7 or maintained hiking trails, park and recre-  
8 ation facilities, playgrounds, playing  
9 fields and other areas for organized sports  
10 or recreation;

11 (5) Apiaries registered with the Department  
12 of Agriculture, Food and rural Resources  
13 pursuant to section 2701;

14 (6) Critical areas designated by the Board  
15 of Pesticides Control pursuant to Title 22,  
16 section 1471-M, subsection 2;

17 (7) Public and private wells, drinking wa-  
18 ter springs and water supply intake points;

19 (8) Cultivated land, cropland, gardens or  
20 cleared areas where livestock are contained  
21 or pastured; or

22 (9) Rights-of-way of public highways,  
23 streets, roads and other publicly maintained  
24 rights-of-way.

25 §43. Registration

26 1. Filing. No later than February 1st of each  
27 year, an owner of farmland may register all or any  
28 designated portion of his farmland in the office of  
29 the municipality or municipalities in which the  
30 farmland is located. Registration shall be accom-  
31 plished by completing and filing a form in the munic-  
32 ipal office to be provided by the Department of Agri-  
33 culture, Food and Rural Resources to municipalities.  
34 A registration made under this chapter remains effec-  
35 tive until withdrawn in accordance with subsection 4  
36 or until the registered property is sold.

37 2. Contents. A registration shall clearly identi-  
38 fy the registered farmland and shall describe the

1 nature of the farming activity or activities con-  
2 ducted on the farmland. In the case of an owner who  
3 applies, or intends to apply within one year, agri-  
4 cultural chemicals on the registered farmland, the  
5 registration must include the identity and the nature  
6 of the chemicals applied or intended to be applied.

7       3. Application. The prohibition established in  
8 section 45, subsection 1, applies to an owner of land  
9 abutting registered farmland who owns the abutting  
10 land at the time the farmland is registered only if  
11 the owner has received from the owner of the regis-  
12 tered farmland a copy of the registration. Mailing  
13 of the copy by certified mail shall be deemed to be  
14 receipt.

15       4. Municipal registry. Each municipality shall  
16 establish and maintain a registry of farmland con-  
17 sisting of registrations made pursuant to subsections  
18 1 and 2. The registry shall be operated in a manner  
19 that makes the information easily accessible to in-  
20 terested persons and effective to inform them as to  
21 the existence in the registry of particular farmland.  
22 Each municipality shall also maintain a similarly ac-  
23 cessible and effective filing system in which shall  
24 be filed notices of removal of farmland from regis-  
25 tration in accordance with subsection 5.

26       5. Withdrawal from registry; notice. No later  
27 than February 1st of each year, an owner of regis-  
28 tered farmland, regardless of whether the farmland  
29 was registered by himself or by another person, may  
30 withdraw the farmland from registration by filing a  
31 written notice of withdrawal in the municipal office  
32 or offices in which the farmland was registered.  
33 Upon receipt of the notice of withdrawal, the munici-  
34 pality shall remove the related registration from the  
35 registration file and shall file the withdrawal no-  
36 tice in accordance with subsection 4.

37       6. Amendment of registration. No later than  
38 February 1st of each year, an owner of registered  
39 farmland, regardless of whether the farmland has been  
40 registered by himself or by another person, may amend  
41 a registration by filing both a new registration and  
42 a notice of withdrawal of the previously filed regis-  
43 tration. Upon receipt of a new registration which

1 amends a previously filed registration, together with  
2 a notice of withdrawal of the previously filed regis-  
3 tration, the municipality shall remove the previously  
4 filed registration from the registration file, file  
5 the new registration in the registration file and  
6 file the notice of withdrawal in accordance with sub-  
7 section 4.

8 7. Fees. A municipality may charge a fee for  
9 the filing of registrations and withdrawal notices  
10 which shall not exceed \$20 for each document. The  
11 municipality may refuse to file a registration or  
12 withdrawal notice until the fee is paid.

13 §44. Consequences of registration

14 1. Disclosure required. Every seller of real  
15 estate and every agent of a seller shall disclose in  
16 writing, in a purchase and sale agreement for the  
17 real estate, if there is such an agreement, but in  
18 any event prior to the completion of the sales trans-  
19 action, the existence of registered farmland abutting  
20 any boundary or portion of a boundary of the real es-  
21 tate offered for sale. The disclosure shall identify  
22 the registered farmland and the nature of the farming  
23 activity or activities, as set forth in the registra-  
24 tion of the farmland.

25 2. Inconsistent development. In the case of  
26 registered farmland on which the registrant has indi-  
27 cated that agricultural chemicals are applied, or are  
28 intended to be applied within one year, in addition  
29 to disclosure of the existence of registered  
30 farmland, as required by subsection 1, and at the  
31 same time, the seller of real estate or the agent of  
32 the seller shall disclose in writing to the buyer  
33 that inconsistent development upon or use of the real  
34 estate offered for sale within 150 feet of any common  
35 boundary of that real estate and the registered  
36 farmland is prohibited as provided in section 45.

37 §45. Prohibited acts

38 1. Inconsistent development. No person may un-  
39 dertake or allow any inconsistent development upon or  
40 use of land within 150 feet of registered farmland on  
41 which the registrant has indicated that agricultural

1 chemicals are applied or are intended to be applied  
2 within one year.

3 2. Building permit. No municipality may issue a  
4 building or use permit allowing within 150 feet of  
5 any common boundary between the registered farmland  
6 and the other real estate any inconsistent develop-  
7 ment upon or use of land abutting registered farmland  
8 on which the registrant has indicated that agricul-  
9 tural chemicals are applied or are intended to be ap-  
10 plied within one year. No permit issued by any mu-  
11 nicipality allowing such inconsistent development  
12 upon or use of any such land is valid.

13 3. Set-back requirements. Any local set-back  
14 requirements of 150 feet or less shall be included  
15 in, not added to, the 150-foot requirement estab-  
16 lished by subsections 1 and 2.

17 4. Road as boundary. Where a road separates  
18 registered farmland and abutting land, the width of  
19 the road shall be included in, not added to, the  
20 150-foot requirement established by subsections 1 and  
21 2.

22 §46. Violation; penalties

23 1. Failure to disclose. It is a violation of  
24 this chapter to fail or refuse to disclose the exis-  
25 tence of registered farmland as required by this  
26 chapter.

27 2. Inconsistent development. It is a violation  
28 of this chapter to undertake or allow within 150 feet  
29 of any common boundary between the registered  
30 farmland and the abutting land any inconsistent de-  
31 velopment upon or use of land abutting registered  
32 farmland on which the registrant has indicated that  
33 agricultural chemicals are applied or are intended to  
34 be applied within one year.

35 3. Penalties. Violation of this chapter shall  
36 be punishable as follows:

37 A. In the case of failure or refusal to disclose  
38 the existence of registered farmland on which the  
39 registrant has indicated that agricultural chemi-



1 cals are applied, or intended to be applied with-  
2 in one year, the contract for sale of the real  
3 estate or the sale itself may be voided by the  
4 buyer and any money deposited or paid by the buy-  
5 er to the seller or the agent of the seller shall  
6 be returned to him. The failure or refusal to  
7 disclose does not affect the applicability of the  
8 prohibitions set forth in section 45.

9 B. Any inconsistent development upon or use of  
10 the abutting land in violation of this chapter  
11 may be ordered to be removed or discontinued by  
12 the court in a proceeding to enforce this chap-  
13 ter.

14 §47. Variance

15 1. Who may apply. An owner of real estate, the  
16 boundaries of which were established by survey or  
17 similar definite and clear means prior to the effec-  
18 tive date of this chapter, may apply to the appropri-  
19 ate local agency with authority to grant variances  
20 from local ordinances or codes for a variance permit-  
21 ting an inconsistent development upon or use of land  
22 abutting registered farmland within 150 feet of the  
23 common boundary of the land and the registered  
24 farmland.

25 2. Requirements. The local authority may grant  
26 a variance only if the applicant proves that if he is  
27 required to observe the 150-foot requirement he will  
28 be prevented from using the land for the purpose for  
29 which, prior to the effective date of this chapter,  
30 he had intended to use it. "Prevented from using the  
31 real estate" means the inability to use it for the  
32 intended purpose and does not include mere changes in  
33 the intended location of any development upon or use  
34 of the land or mere changes in the design or con-  
35 struction of any intended development or use.

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STATEMENT OF FACT

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This bill provides for registration of farmland with municipalities, which will protect that farmland from inconsistent development on adjacent property. Certain types of development will be prohibited within 150 feet of the registered farmland. Real estate agents will be required to disclose the existence of the registered farmland to potential buyers of abutting property.

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