

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
(New Draft of H.P. 1030, L.D. 1388)  
(New Title)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1803

H.P. 1319 House of Representatives, June 9, 1987  
Reported by Representative RIDLEY from the Committee on  
Energy and Natural Resources and printed under Joint Rule 2.  
EDWIN H. PERT, Clerk  
Original bill sponsored 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 Noise Generated by  
Developments.

Emergency preamble. Whereas, Acts of the Legis-  
lature do not become effective until 90 days after  
adjournment unless enacted as emergencies; and

Whereas, the Department of Environmental Protec-  
tion has adopted rules under the site location of de-  
velopment law which provides for control of excessive  
noise from developments which are reviewed under that  
law; and

Whereas, those rules have proven to be difficult  
to interpret for applicants, the public and the de-  
partment; and

1           Whereas, applicants have difficulty determining  
2 whether their developments will be found to produce  
3 excessive noise because of uncertainty in the rule as  
4 to how background and other noise levels will be mea-  
5 sured; and

6           Whereas, applicants are unable to predict what  
7 noise controls will be required on their projects;  
8 and

9           Whereas, there is confusion as to the role of mu-  
10 nicipal noise ordinances and municipal zoning under  
11 the site location of development law; and

12           Whereas, recent Board of Environmental Protection  
13 decisions have resulted in added confusion and uncer-  
14 tainty regarding noise standards; and

15           Whereas, as a result of these circumstances, mu-  
16 nicipalities, permit applicants, property owners and  
17 others are unable to ascertain, plan and rely on con-  
18 sistent quantifiable and predictable noise standards;  
19 and

20           Whereas, these circumstances have a substantial  
21 and material negative impact on the economic climate  
22 in the State; and

23           Whereas, in the judgment of the Legislature,  
24 these facts create an emergency within the meaning of  
25 the Constitution of Maine and require the following  
26 legislation as immediately necessary for the preser-  
27 vation of the public peace, health and safety; now,  
28 therefore,

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

31           Sec. 1. 38 MRSA §481, as amended by PL 1983, c.  
32 513, §1, is further amended by adding at the end a  
33 new paragraph to read:

34           The Legislature further finds that noise gener-  
35 ated at development sites has primarily a geographi-  
36 cally restricted and frequently transient impact  
37 which is best regulated at the municipal level pursu-

1 ant to a municipality's economic development and land  
2 use plans. It is the intent of the Legislature that  
3 regulation of noise from developments is primarily  
4 the responsibility of local municipal governments. It  
5 is further the intent of the Legislature that any ac-  
6 tion by the board regulating the effects of noise  
7 taken after July 1, 1986, which is inconsistent with  
8 section 482-A, shall be reconsidered and amended only  
9 on the issue of noise upon the petition of an appli-  
10 cant or intervenor to the permitting action within  
11 180 days of the effective date of rules adopted pur-  
12 suant to section 482-A.

13 Sec. 2. 38 MRS-A §482-A is enacted to read:

14 §482-A. Noise effect

15 The effect of noise from a development may be  
16 regulated pursuant to section 484, subsection 3.

17 1. Amended rules; adoption. On or before Decem-  
18 ber 31, 1987, the Department of Environmental Protec-  
19 tion shall adopt amended rules for the control of  
20 noise generated by developments. These rules shall:

21 A. Reflect consideration of local zoning with  
22 regard to both the zone in which the development  
23 is located and the proximity of the development  
24 to residential areas;

25 B. Employ a consistent methodology to assess  
26 background and intrusive noise effects of devel-  
27 opments of a similar nature;

28 C. Provide that the board may limit the hours of  
29 operation of the development to minimize the im-  
30 act on surrounding uses; and

31 D. Contain an appropriate list of activities  
32 which, although connected with a development, are  
33 wholly or partially exempt from review by the  
34 board.

35 2. Consideration of local ordinance. In deter-  
36 mining whether a developer has made adequate provi-  
37 sion for the control of noise generated by a develop-  
38 ment, the board shall consider its own regulations

1 and the quantifiable noise standards of the municipi-  
2 pality in which the development is located and of any  
3 municipality which may be affected by the noise.

4 3. Prohibition. Nothing in this section may be  
5 construed to prohibit any municipality from adopting  
6 noise regulations stricter than those adopted by the  
7 Department of Environmental Protection.

8 **Emergency clause.** In view of the emergency cited  
9 in the preamble, this Act shall take effect when ap-  
10 proved.

11 STATEMENT OF FACT

12 This new draft directs the Department of Environ-  
13 mental Protection to adopt amended rules governing  
14 control of noise and provides guidelines to the de-  
15 partment for those rules. The new draft also directs  
16 the Board of Environmental Protection to consider lo-  
17 cal noise ordinances. Those ordinances may be  
18 stricter than state standards. It is the intent of  
19 the Legislature that regulation of the noise effects  
20 of development continue to be regulated under exist-  
21 ing rules and license conditions until such time as  
22 the Department of Environmental Protection adopts new  
23 noise rules pursuant to this new draft. Only after  
24 these rules are adopted may the Board of Environmen-  
25 tal Protection reconsider the conditions in licenses  
26 issued after July 1, 1986.

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