

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2123

H.P. 1559 House of Representatives, January 22, 1988
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 VOSE of Eastport.

STATE OF MAINE

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

1 **AN ACT to Ensure the Safe Siting of Gravel**
2 **Excavation.**
3

4 **Emergency preamble.** Whereas, Acts of the
5 Legislature do not become effective until 90 days
6 after adjournment unless enacted as emergencies; and

7 Whereas, the State's authority to regulate gravel
8 excavation is extremely limited for sites less than 5
9 acres in size; and

1 Whereas, these small operations, pose serious
2 risks to property values and safety if not operated
3 properly; and

4 Whereas, in the judgment of the Legislature, these
5 facts create an emergency within the meaning of the
6 Constitution of Maine and require the following
7 legislation as immediately necessary for the
8 preservation of the public peace, health and safety;
9 now, therefore,

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

12 **38 MRSA §482, sub-§2, as repealed and replaced**
13 **by PL 1987, c. 130, is amended to read:**

14 2. Development which may substantially affect the
15 environment. "Development which may substantially
16 affect the environment," in this article called
17 "development," means any state, municipal,
18 quasi-municipal, educational, charitable, commercial
19 or industrial development, including any subdivision:

20 A. Which occupies a land or water area in excess
21 of 20 acres;

22 B. Which contemplates drilling for or excavating
23 natural resources on land or under water where the
24 area affected is in excess of 60,000 square feet;

25 C. Which is a mining activity as defined in this
26 section;

27 D. Which is a hazardous activity as defined in
28 this section; or

29 E. Which is a structure as defined in this
30 section.

31 The term does not include state highways, state aid
32 highways, borrow pits for sand, fill or gravel of less
33 than 5 acres, or when regulated by the Department of
34 Transportation, and such borrow pits entirely within
35 the jurisdiction of the Maine Land Use Regulation

1 Commission under Title 12, chapter 206-A, and those
2 activities regulated by the Department of Marine
3 Resources under Title 12, section 6072.
4 Notwithstanding this subsection, the owner or operator
5 of borrow pits less than 5 acres in size may not
6 excavate material within 100 feet of any property
7 boundary or within 500 feet of any residential
8 dwelling without the permission of the abutting
9 owner. The owner or operator of such a pit shall
10 notify the department when excavation operations are
11 abandoned. The department shall establish, by rule,
12 maximum slope requirements for the faces of these
13 borrow pits after abandonment. A borrow pit shall be
14 considered abandoned if no material has been excavated
15 during a continuous one-year period.

16 No person may construct or cause to be constructed or
17 operate or cause to be operated, or, in the case of
18 a subdivision, sell, offer for sale or cause to be
19 sold, any development requiring approval under section
20 483, without first having obtained approval for such
21 construction, operation or sale from the Board of
22 Environmental Protection.

23 **Emergency clause.** In view of the emergency
24 cited in the preamble, this Act shall take effect when
25 approved.

26 STATEMENT OF FACT

27 Small borrow pits, less than 5 acres, are not
28 currently regulated by the Department of Environmental
29 Protection. This bill imposes notification and
30 set-back requirements to protect the property of
31 adjacent landowners. The bill also gives the
32 department the authority to establish maximum slope
33 rules to ensure safety at these small borrow pits. It
34 is the intent of the Legislature that these
35 requirements extend to existing small borrow pits.

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