

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

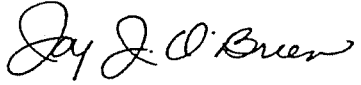
Legislative Document

No. 319

S.P. 162

In Senate, February 22, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BOST of Penobscot.

Cosponsored by Senator KANY of Kennebec, Representative MICHAUD of East Millinocket and Representative MITCHELL of Freeport.

STATE OF MAINE

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

An Act to Manage Commercial and Industrial Growth on Significant
Ground Water Aquifers.



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

3 **Sec. 1. 38 MRSA §401, 3rd ¶,** as enacted by PL 1979, c. 472,
5 §12, is amended to read:

7 The Legislature further finds and declares that ground water
resources are endangered by unwise uses and land use practices
9 and that statewide guidelines for development over significant
ground water aquifers should be promulgated.

11 **Sec. 2. 38 MRSA §401-A** is enacted to read:

13 **§401-A. Definitions**

15 As used in this article, unless the context otherwise
17 indicates, the following terms have the following meanings.

19 1. **Bedrock aquifer.** "Bedrock aquifer" means a consolidated
21 rock formation which is fractured, saturated and recharged by
23 precipitation percolating through overlying sediments to a degree
which permits wells drilled into the rock to produce a sufficient
water supply for domestic use.

25 2. **Primary recharge area.** "Primary recharge area" means
27 the surface area directly overlying aquifers that provide direct
29 replenishment of ground water. Primary recharge area does not
include areas overlying formations that have been identified as
unsaturated and are not contiguous to saturated formations.

31 3. **Sand and gravel aquifer.** "Sand and gravel aquifer"
33 means a porous formation of ice-contact and glacial outwash sand
and gravel that contain significant recoverable quantities of
water which are likely to provide drinking water supplies.

35 4. **Significant aquifer.** "Significant aquifer" means an
37 aquifer with a potential yield of at least 10 gallons per minute.

39 **Sec. 3. 38 MRSA §403, sub-§1,** as enacted by PL 1983, c. 521,
is amended to read:

41 1. **Legislative intent.** The Legislature finds that sand and
43 gravel aquifers and bedrock aquifers are important public and
private resources for drinking water supplies and other
45 industrial, commercial and agricultural uses. The ground water
in these formations is particularly susceptible to contamination
47 by pollutants and, once polluted, may not recover for hundreds of
years. It is the intent of the Legislature that information be
developed which shall determine the degree that the state's sand
49 and gravel aquifers and bedrock aquifers have been contaminated
and shall provide a base of knowledge from which decisions may be
51 made to protect the aquifers.

1 Sec. 4. 38 MRSA, §403, sub-§3 is enacted to read:

3 3. Bedrock aquifers. The Maine Geologic Survey shall
5 develop a program to delineate significant bedrock aquifers and
7 their primary recharge areas throughout the State through field
9 studies and research. The Maine Geologic Survey shall then map
11 these aquifers and distribute the maps to municipal governments.

13 Sec. 5. 38 MRSA §403-A is enacted to read:

15 §403-A. Aquifer protection program

17 1. Development activities regulated. Development
19 activities which are not subject to the site location of
21 development law, proposed for land over significant ground water
23 aquifers mapped and identified by the Maine Geologic Survey, must
25 comply with rules adopted under subsection 2. For the purposes
27 of this section, "development activities" means construction and
29 operation of commercial and industrial facilities.

31 2. Appropriate development. By July 1, 1990, the board in
33 coordination with other state agencies, shall adopt rules that:

35 A. Identify development activities that pose potential
37 hazards to ground water quality; and

39 B. Develop standards for construction and operation of
41 these developments to preclude the degradation of existing
43 ground water quality below the standards for drinking water
45 established by the United States Environmental Protection
47 Agency or, if existing water quality does not meet drinking
49 water standards, will not result in a detectable change in
51 background contamination.

3. Notification. The owner of any land overlying a mapped
ground water aquifer shall notify the department within 30 days
of any site preparation for development activities regulated
under this section.

4. Variance. A landowner may apply for a variance from the
board for proposed development activities that are not in
compliance with the rules adopted under subsection 2. The
applicant has the burden of proof under this subsection to show
why the proposed activity will not degrade existing ground water
quality below the standards for drinking water established by the
United States Environmental Protection Agency or, if existing
water quality does not meet drinking water standards, will not
result in a detectable change in background contamination.

5. Violation. A landowner commits a violation of this
section if development activities over a mapped ground water

1 aquifer are not in compliance with the rules adopted in
2 subsection 2.

3

4 6. Municipal regulation. Nothing in this section shall be
5 construed to limit the right of a municipality to adopt and
6 enforce more stringent requirements for protecting ground water
7 aquifers and resources within their boundaries than those
8 promulgated under subsection 2.

9

11

STATEMENT OF FACT

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14 This bill addresses the cumulative impact of commercial and
15 industrial development on ground water quality. It proposes that
16 the Department of Environmental Protection develop performance
17 standards for commercial and industrial development over ground
18 water aquifers mapped by the Maine Geologic Survey. Proposed
19 actions not in compliance with these standards must apply to the
20 board for a variance.

21

22 Sections 3 and 4 require the Maine Geologic Survey to
23 identify and map bedrock aquifers throughout the State. A
24 similar program for sand and gravel aquifers is nearing
25 completion.

27

28 Section 5 requires the Department of Environmental
29 Protection to develop rules outlining acceptable commercial and
30 industrial development over aquifers that will not jeopardize
31 their quality. Landowners are required to notify the department
32 within 30 days of starting a development activity. Variances may
33 be granted by the Board of Environmental Protection when an
34 applicant can prove that proposed activities will not put ground
35 water resources at risk.

35