

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2364

H.P. 1713

House of Representatives, February 26, 1990

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ANDERSON of Woodland.

Cosponsored by Senator LUDWIG of Aroostook and Representative DEXTER of Kingfield.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act to Establish Fees for Nonferrous Mining.**

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(EMERGENCY)



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

4           Whereas, several enterprises have expressed interest in  
6 beginning nonferrous metal mining operations in the State; and

8           Whereas, the existing fee structure for permits from the  
Department of Environmental Protection is inadequate to properly  
10 assess the environmental impacts of large-scale mining  
operations; and

12           Whereas, considerable state resources are expended for  
14 review of mining projects in advance of submission of an  
application to mine; and

16           Whereas, the Department of Environmental Protection must  
18 have sufficient resources to assess the environmental, health and  
safety issues related to nonferrous mining in the State; and

20           Whereas, the Legislature has determined that nonferrous  
22 metal mining, if conducted properly, is an acceptable and  
necessary activity which results in benefits to the State and the  
24 nation; and

26           Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
28 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
30 safety; now, therefore,

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

34           **Sec. 1. 38 MRSA §352, sub-§4-A is enacted to read:**

36           4-A. Maximum fees for nonferrous metal mining.  
Notwithstanding the fees for mining established in subsections 4  
38 and 5, the maximum fees for nonferrous metal mining are as  
follows:

40

<u>PROCESSING FEE</u>	<u>ANNUAL LICENSE FEE</u>
<u>\$90,000</u>	<u>\$10,000</u>

42

44           **Sec. 2. 38 MRSA §353, sub-§2-A is enacted to read:**

46           2-A. Processing fee for nonferrous metal mining. Two  
48 thirds of the processing fee for nonferrous metal mining must be  
paid upon submission of a baseline monitoring plan to the  
50 department for review and approval. The remainder of the  
processing fee must be paid at the time the application is  
52 filed. If the application is withdrawn by the applicant within  
30 days of the date of filing, one third of the total processing  
54 fee must be refunded.

2 For the purposes of this section, "baseline monitoring plan"  
4 means a monitoring plan that defines the existing site conditions  
6 for a specific location and must include, but is not limited to,  
8 characterizations of the following subjects: wildlife, surface  
10 and ground water quality and quantity and air quality.

8 **Sec. 3. 38 MRSA §353, sub-§3**, as amended by PL 1987, c. 787,  
10 §11, is further amended to read:

12 **3. License fee.** A license fee shall be paid at the time of  
14 filing the application. Failure to pay the license fee at the  
16 time of filing will result in the application being returned to  
18 the applicant. The department shall refund the license fee if  
the board or commissioner denies the application or if the  
application is withdrawn by the applicant. Notwithstanding the  
provisions of this subsection, the license fee for a subdivision  
shall be paid prior to the issuance of the license.

20 The license fees for nonferrous metal mining must be paid  
22 annually on the anniversary date of the license for the life of  
24 the project, up to and including the period of closure and  
reclamation.

26 **Sec. 4. 38 MRSA §354-A** is enacted to read:

28 **§354-A. Comprehensive mining regulations**

30 The board shall promulgate, in accordance with the Maine  
32 Administrative Procedure Act, Title 5, chapter 375, comprehensive  
34 regulations governing nonferrous metal mining. The regulations  
must be promulgated by November 1, 1990. In promulgating these  
rules, the board shall consider the economic and environmental  
impact of the rules.

36 **Emergency clause.** In view of the emergency cited in the  
38 preamble, this Act takes effect when approved.

40 **STATEMENT OF FACT**

42 The bill establishes a maximum processing fee of \$90,000 for  
44 nonferrous metal mining applications and a maximum annual  
46 licensing fee of \$10,000. The nonferrous metal mining fees are  
48 distinguished from other mining applications such as those for  
gravel pits and quarries. Since this category of mining is of a  
different magnitude and involves far greater environmental  
impacts, fees are set according to the resources required to  
provide thorough review of such projects.

50 The bill also provides that the processing fee is paid in 2  
52 parts: 2/3 with the submission of a baseline monitoring proposal  
and the remaining 1/3 when the application is submitted. This

2 proposal recognizes that a great deal of resources is expended  
3 reviewing mining projects and advising potential applicants well  
4 before actual submission of an application. If the application  
5 is withdrawn within 30 days of the date that it is finally  
6 submitted, the fees associated with preapplication review of the  
7 projects are nonrefundable.

8 The bill amends the existing description of payment of  
9 licensing fees to note that permitted nonferrous metal mines must  
10 pay an annual license fee to a maximum of \$10,000. This fee  
11 would provide resources for the Department of Environment  
12 Protection to ensure compliance checks during the mining  
13 operation and during closure and remediation. This is an  
14 especially important provision given the environmental problems  
15 historically associated with mining in other states and the fact  
16 that the industry is new to the State. There will be a need to  
17 provide technical assistance and such other actions as may be  
18 necessary to ensure adherence to our environmental laws.

19 Finally, the bill recognizes the need to complete a  
20 comprehensive set of regulations to cover nonferrous metal mining  
21 in a timely manner and designed to meet the unique requirements  
22 of mining.  
23  
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