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Legislative Document

No. 2493

H.P. 1820

House of Representatives, April 6, 1990

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

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EDWIN H. PERT, Clerk

Presented by Representative DEXTER of Kingfield. Cosponsored by Representative LORD of Waterboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY

An Act to Amend the Maine Environmental Protection Fund Air Emission Fee Schedule.

(EMERGENCY)

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

Whereas, the fees received for licenses issued under the
 Maine Revised Statutes, Title 38, section 590, have not been
 revised since 1983 and the term of licenses issued has been
 changed from 2 to 5 years; and

10 Whereas, the activities supported by the fees have become increasingly more complex; and

Whereas, the fees are no longer sufficient to support the legislative mandates of the Maine Revised Statutes, Title 38, section 590; and

Whereas, the lack of funding seriously jeopardizes the 18 State's ability to conduct the mandates of the Bureau of Air Quality Control; and

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

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

Sec. 1. 38 MRSA §352, sub-§2, ¶A, as amended by PL 1987, c. 30 787, §7, is further amended to read:

 A. Precessing Except for those fees assessed under section 353-A, processing fees shall must be assessed for costs incurred in determining the acceptability of an application for processing and in processing an application to determine whether it meets statutory and regulatory criteria.

Sec. 2. 38 MRSA §352, sub-§2, ¶C, as enacted by PL 1983, c. 574, §1, is amended to read:

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C. Lieensing <u>Except for those fees assessed under section</u> <u>353-A, licensing</u> fees shall <u>must</u> be assessed for direct costs incurred in monitoring, inspecting and sampling to assure <u>ensure</u> proper compliance by a licensee.

46 Sec. 3. 38 MRSA §352, sub-§2, ¶E is enacted to read:

 48 E. The air emission license fees assessed under section 353-A for those facilities licensed under section 590 must
 50 be assessed to support activities for the Bureau of Air Quality Control including licensing, compliance,
 52 enforcement, monitoring, data acquisition and administration.

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2 Sec. 4. 38 MRSA §352, sub-§4, in that part designated "TABLE I" in that part relating to "TITLE 38" SECTION 590 is repealed and the following enacted in its place:

6 <u>590. Annual air emission fees</u>

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See section 353-A

Sec. 5. 38 MRSA §352, sub-§6, as enacted by PL 1987, c.787, §10, is amended to read:

6. Reporting requirements. The department <u>commissioner</u>
 12 shall report, before February 1st of each year, to the joint standing committee of the Legislature having jurisdiction over
 14 natural resources on the effects of the license fee increases on department efficiency and license and permit processing time.

Sec. 6. 38 MRSA §353, sub-§2, as amended by PL 1987, c. 419, 18 §8, is further amended to read:

20 Processing fee. A- Except for annual air emission fees 2. pursuant to section 353-A, a processing fee shall must be paid at 22 time of filing the application. Failure to pay the theprocessing fee at the time of filing the application will-result 24 results in the application being returned to the applicant. The department-shall commissioner may not refund the processing fee if the application is denied by the board or the commissioner. If 26 the application is withdrawn by the applicant within 30 days of the start of processing, the processing fee shall-be is refunded. 28

Sec. 7. 38 MRSA §353, sub-§3, as amended by PL 1987, c.787, §11, is further amended to read:

3. License fee. A- The license fee-shall fees assessed in
section 352, subsection 4, must be paid at the time of filing the application. Failure to pay the license fee at the time of
filing will result in the application being returned to the applicant. The department commissioner 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 must be paid prior to the issuance of the license.

Sec. 8. 38 MRSA $\S353$, sub- $\S5$, as amended by PL 1987, c. 419, $\S8$, is further amended to read:

46 5. Renewals or amendments. The As set forth in section 353-A, except for renewals or amendments issued under section
48 590, the processing fee for renewals or amendments shall-be is equal to direct costs up to 1/2 the processing fee for initial
50 applications. The license fee for renewals shall-be is identical to the initial license fee. The license fee for amendments shall
52 may not exceed the initial license fee.

2	Sec. 9. 38 MRSA §353-A is enacted to read:
4	<u>§353-A. Annual air emissions license fees</u>
б	1. Fees assessed. After the effective date of this section, a licensee must pay an annual fee assessed on the sum of
8	all licensed allowable air pollutants, except for carbon monoxide, as follows:
10 12	<u>Annual licensed emissions</u> <u>Per ton fee</u> <u>in tons</u>
14	$\frac{1 - 1,000}{1,001 - 4,000}$ \$2 \$4
16	over 4,001 \$8
18	2. Schedule. The fee for existing licenses is paid on the
20	anniversary date of the license. The annual fee for new applications is estimated and paid at the time of filing the application. When the processing of the application is complete,
22	the final annual fee is determined. Any additional amount is due prior to the issuance of the license. Any overpayment must be
24	refunded. If the application is denied, 50% of the initial annual fee must be refunded. The effective date of the license
26	becomes the anniversary date.
28 30	3. Maximum and minimum fee. The minimum annual fee is \$100 per year and the maximum annual fee is \$60,000 per year.
30	4. Transition for existing licenses. A licensee of a
32	<u>source in existence on the effective date of this section may request a revision to that license to reduce the sum of the</u>
34	licensed allowable air pollutants.
36	5. Electrical generating facilities. Any electrical generating facility owned or operated by a regulated electric
38	utility that has operated at not more than 20% of its capacity factor over the most recent 4-year period has its annual fee
40	calculated on the 20% capacity factor. If the facility exceeds the 20% capacity factor in any calendar year, the annual fee is
42	based on actual emissions.
44	<u>6. Renewals and amendments. There are no additional fees</u> assessed for license renewals or amendments.
46	7. Nonpayment of fee. Failure to pay the annual fee within
48	30 days of the anniversary date of a license is sufficient grounds for revocation of the license under section 347-B.
50	Emergency clause. In view of the emergency cited in the
52	preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill establishes an annual air emission license fee based on the amount of pollutant a licensee emits. The maximum annual license fee is capped at \$60,000. The fees generated by this increase will be used to staff and operate the Department of Environmental Protection, Bureau of Air Quality Control.

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