

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 84, L.D. 112, Bill, "An Act to Ensure Adequate Enforcement of Air Quality Law"

Amend the bill by striking out all of sections 4 to 6 and inserting in their place the following:

Sec. 4. 38 MRSA §352, sub-§5, as amended by PL 1989, c. 502, Pt. A, §167, is further amended in that part designated "TABLE I" by repealing that part relating to "TITLE 38" SECTION 590 and inserting in its place the following:

590, Air emissions licenses See section 353-A

Sec. 5. 38 MRSA §353, sub-§2, as repealed and replaced by PL 1991, c. 66, Pt. A, §4, is amended to read:

2. Processing fee. -A- Except for annual air emission fees pursuant to section 353-A, a processing fee must be paid at the time of filing the application. Failure to pay the processing fee at the time of filing the application results in the application being returned to the applicant. The commissioner may not refund the processing fee if the application is denied by the board or the commissioner. If the application is withdrawn by the applicant within 30 days of the start of processing, the processing fee must be refunded, except in the case of nonferrous metal mining applications. If an application for nonferrous metal mining is withdrawn by the applicant within 30 days of the date of filing, 1/2 of the application fee must be refunded.

Sec. 6. 38 MRSA §353, sub-§3, as repealed and replaced by PL 1991, c. 66, Pt. A, §5, is amended to read:

3. License fee. -A- The license fee assessed in section 352, subsection 5 must be paid at the time of filing the application. Failure to pay the license fee at the time of filing results in the application being returned to the applicant. The commissioner shall refund the license fee if the board or commissioner denies the application or if the

2 application is withdrawn by the applicant. Notwithstanding the  
provisions of this subsection, the license fee for a subdivision  
must be paid prior to the issuance of the license.

4  
6 The license fees for nonferrous metal mining must be paid  
annually on the anniversary date of the license for the life of  
the project, up to and including the period of closure and  
8 reclamation.'

10 Further amend the bill in section 8 in that part designated  
"§353-A." by inserting after subsection 1 the following:

12  
14 '2. Fee adjustment. The commissioner may adjust the per  
ton fees on an annual basis according to the United States  
Consumer Price Index established by the federal Department of  
16 Labor, Bureau of Labor Statistics.'

18 Further amend the bill in section 8 in that part designated  
"§353-A." by striking out all of subsection 3 and inserting in  
20 its place the following:

22 '3. Maximum and minimum fees. The minimum annual fee is  
\$100 per year. The maximum annual fee is \$100,000 per year.'

24  
26 Further amend the bill in section 8 in that part designated  
"§353-A." by striking out all of subsection 5 and inserting in  
its place the following:

28  
30 '5. Electrical generating facilities. The annual fee for  
an electrical generating facility owned or operated by a  
32 regulated electric utility that has operated the facility at not  
more than 20% of its capacity factor over the most recent 4-year  
34 period is calculated on the 20% capacity factor. If the facility  
exceeds the 20% capacity factor in any calendar year, the annual  
fee is based on actual emissions.'

36  
38 Further amend the bill in section 8 in that part designated  
"§353-A." by renumbering the subsections to read consecutively.

40 Further amend the bill by inserting at the end before the  
statement of fact the following:

42  
44 'Sec. 9. 38 MRSA §589, as affected by PL 1989, c. 890, Pt. A,  
§40 and amended by Pt. B, §163, is repealed and the following  
enacted in its place:

46 §589. Registration; penalties

48  
50 The commissioner may require the registration of persons or  
air contamination sources, of a type the board may by rule  
prescribe, engaged in activities that emit air contaminants and  
52 may also require persons operating stationary air contamination

2 sources to install, maintain and use reasonable emission  
monitoring devices as the board by rule may prescribe.

4 1. Reporting requirements. Persons may be required by the  
commissioner to periodically report on the location, size of  
6 outlet, height of outlet, rate and period of emission and  
composition of air contaminants, location and type of air  
8 pollution control apparatus and other information as prescribed  
by rule of the board.

10 A. The commissioner shall establish procedures for  
12 reporting ambient air quality data, including reporting  
violations of ambient air quality standards and emission  
14 standards.

16 B. A person may not be required to submit to the  
commissioner more than one copy of ambient air monitoring  
18 data or meteorological data more frequently than quarterly  
unless required by the federal Environmental Protection  
20 Agency.

22 2. Stack tests. A person is not required to conduct stack  
tests for particulate matter on a source monitored by a  
24 continuous monitoring device for opacity as specified by 40 Code  
of Federal Regulations, Part 60, Appendix B, specification 1 or  
26 appropriate surrogate parameters as required by the commissioner  
more frequently than once every 2 years unless visible emissions,  
28 operating parameters or another cause indicates the source may be  
operating out of compliance with any applicable emission standard.

30 3. Emission monitoring devices. Failure by a person to  
32 register, install, maintain and use emission monitoring devices  
or to file reports from those devices renders that person liable  
34 to the penalties prescribed in sections 348 and 349.

36 **Sec. 10. 38 MRSA §590, first ¶,** as affected by PL 1989, c. 890,  
Pt. A, §40 and amended by Pt. B, §164, is further amended to read:

38  
40 After ambient air quality standards and emission standards  
42 have been established within a region, the board may by rule  
44 provide that no person may operate or maintain or modify in that  
region any air contamination source or emit any air contaminants  
therein without an emission license from the department.

46 **Sec. 11. 38 MRSA §590,** as affected by PL 1989, c. 890, Pt. A,  
§40 and amended by Pt. B, §164, is further amended by adding  
after the 2nd paragraph a new paragraph to read:

48  
50 Best practical treatment may not require the use of fuel  
with a lower sulfur content than that specified in section 603-A

2 unless a lower sulfur fuel is required to comply with applicable  
3 emission standards or applicable ambient air quality standards.

4 Sec. 12. 38 MRSA §§591-A and 591-B are enacted to read:

6 §591-A. Modifications to a licensed source

8 1. Modifications. Modification of a licensed source means  
9 any physical or operational change in an emission unit or  
10 emission source that:

12 A. Increases the quantity of any air contaminant emitted;

14 B. Increases the impact of the emissions of that emission  
15 unit or source on ambient air quality due to changes in  
16 stack height, physical building characteristics or plume  
17 characteristics unless the commissioner finds that the  
18 change will not cause a violation of ambient air quality  
19 standards and ambient increment standards;

20 C. Results in the emission of any air contaminant not  
21 previously emitted;

24 D. Constitutes construction of a new emission unit; or

26 E. Constitutes the reconstruction of a new emission unit as  
27 defined in 40 Code of Federal Regulations, 60.15 (1990).

28 2. Changes not considered modifications. The following  
30 changes are not modifications to a licensed source:

32 A. Routine maintenance, repair and replacement;

34 B. An increase in the production rate at an existing source  
35 if the increase does not exceed the operating design  
36 capacity of the source, unless that change is prohibited  
37 under any federally enforceable permit condition established  
38 after January 6, 1975 pursuant to 40 Code of Federal  
39 Regulations, 52.21 (1990) or under regulations approved  
40 pursuant to 40 Code of Federal Regulations, Part 51, Subpart  
41 I or 40 Code of Federal Regulations, 51.166 (1990);

42 C. An increase in the hours of operation at an existing  
43 source, unless that change is prohibited under any federally  
44 enforceable permit condition established after January 6,  
45 1975 pursuant to 40 Code of Federal Regulations, 52.21  
46 (1990) or under regulations approved pursuant to 40 Code of  
47 Federal Regulations, Part 51, Subpart I or 40 Code of  
48 Federal Regulations, 51.166 (1990);

50 D. Use of an alternative fuel or raw material if the source  
52 is designed to accommodate that alternative fuel or raw

2 material and if prior to January 6, 1975, the source is  
licensed to use that alternative fuel or raw material; or

4 E. Replacement of an air pollution control apparatus if the  
replacement is found by the department to be the best  
6 practical treatment for the emission.

8 **§591-B. Meteorological data collection**

10 1. Data requirements. A minimum of one year of acceptable  
on-site meteorological data is required for any modeling  
12 analysis. If more than one year of on-site data is available,  
all acceptable data must be used, up to a maximum of 5 years of  
14 data. If less than 5 consecutive years of acceptable on-site  
data is available, the source must continue to collect  
16 meteorological data to obtain an acceptable 5-year data base.  
Acceptable data means that the data meets the department's  
18 requirements based on the federal Environmental Protection  
Agency's guidelines on air quality models.

20 2. New data collection requirements. Once an acceptable  
22 on-site 5-year data base has been approved by the commissioner,  
it is acceptable for modeling purposes until:

24 A. The department's requirements based on federal  
26 requirements for meteorological data change;

28 B. Sufficient ambient air quality violations occur to make  
collection of additional meteorological data necessary; or

30 C. The emission source configuration is significantly  
32 changed.

34 **Sec. 13. Report.** The Commissioner of Environmental Protection  
36 shall report to the Joint Standing Committee on Energy and  
Natural Resources no later than February 1, 1993 on the Bureau of  
38 Air Quality Control's existing and anticipated budget needs and  
revenues. The report must include a description of the bureau's  
40 existing and anticipated activities, the budget needs for these  
activities and an analysis of whether the fee structure in the  
42 Maine Revised Statutes, Title 38, section 353-A must be changed  
to comply with the Federal Clean Air Act, Section 502 (b)(3) as  
amended in 1990.

44 **Sec. 14. Rules.** By July 1, 1992, the Board of Environmental  
46 Protection shall adopt rules for ambient air quality modeling  
protocols that include methodologies and information to be used  
48 in air emissions licensing.

50 **Sec. 15. Allocation.** The following funds are allocated from  
the Maine Environmental Protection Fund to carry out the purposes  
52 of this Act.

2 1991-92 1992-93

4 ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF

6  
8 Maine Environmental Protection  
Fund

10	Positions	(7.0)	(7.0)
	Personal Services	\$149,424	\$279,785
12	All Other	7,760	8,390
	Capital Expenditures	303,700	270,700

14 Provides funds for a Senior  
16 Meteorologist position, 2  
18 Civil Engineer II positions,  
an Environmental Specialist  
20 Specialist III position, 2 Environmental  
Specialist II positions, a  
22 Chemist III position, air  
monitoring equipment, 2  
24 compact vehicles and computer  
equipment.

26 DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
28 TOTAL

<u>          </u>	<u>          </u>
\$460,884	\$558,875

30 Sec. 16. Effective date. This Act takes effect on November 1,  
1991.

32

34 FISCAL NOTE

36 1991-92 1992-93

38 APPROPRIATIONS/ALLOCATIONS

40	Other Funds	\$460,884	\$558,875
----	-------------	-----------	-----------

42 REVENUES

44	Other Funds	\$1,100,000	\$1,100,000
----	-------------	-------------	-------------

46 This bill will result in an increase in dedicated revenues  
48 to the Maine Environmental Protection Fund in the amount of  
\$1,100,000 annually. This increase will be derived from the  
50 Department of Environmental Protection's authority to adjust per  
ton fees for air pollution emissions based on the Consumer Price  
52 Index. This bill will also require an allocation to the  
department of \$460,884 for fiscal year 1991-92 and \$558,875 for

1 fiscal year 1992-93 to provide funds for 7 additional positions  
2 to carry out the intent of this legislation. Costs associated  
3 with the department reporting to the Legislature on the proposed  
4 fee increase and adopting rules for ambient air quality modeling  
5 will be absorbed within existing budgeted resources of the  
6 Department of Environmental Protection.'

8  
10 **STATEMENT OF FACT**

12 This amendment amends the original bill to further the  
13 intent of the Joint Standing Committee on Energy and Natural  
14 Resources to restructure fees for the Bureau of Air Quality  
15 Control and allow the Commissioner of Environmental Protection to  
16 adjust per ton fees for air pollution emissions based on the  
17 Consumer Price Index. The amendment also increases the maximum  
18 fee to \$100,000 per year and stipulates that the bill will take  
19 effect on November 1, 1991. The Commissioner of Environmental  
20 Protection is required to report to the Legislature on the  
21 results of the fee increase proposed by this bill and on  
22 anticipated changes to meet federal requirements. The Board of  
23 Environmental Protection is required to adopt rules for ambient  
24 air quality modeling.

26 The amendment also specifies operating and data requirements  
27 as follows.

28 1. Reporting and collection requirements for meteorological  
29 data are specified.

30 2. Stack tests for particulate matter may only be required  
31 every 2 years.

32 3. The use of fuel with a lower sulfur content than the  
33 ceiling specified in law may not be used to meet best practical  
34 treatment of emissions except when standards are at risk of  
35 violation.

36 4. Changes to an emission source that would constitute a  
37 modification are spelled out in the law.  
38  
39  
40  
41  
42

Reported by the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the  
House

(6/5/91)

(Filing No. H-578)