

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1317

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H.P. 920

House of Representatives, March 26, 1991

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24.

Reference to the Committee on Agriculture suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative PINES of Limestone.

Cosponsored by Senator LUDWIG of Aroostook and Senator TWITCHELL of Oxford.

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STATE OF MAINE

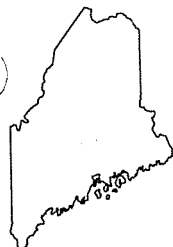
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Revise the Law Protecting Farmers' Rights to Farm.**

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

4 Sec. 1. 7 MRSA c. 103, sub-c. II-B is enacted to read:

6 SUBCHAPTER II-B

8 GROUND WATER CONTAMINATION FUND

10 §626. Ground Water Contamination Fund established

12 The Ground Water Contamination Fund is established as a  
14 nonlapsing fund. The Commissioner of Agriculture, Food and Rural  
16 Resources shall adopt rules under the Maine Administrative  
18 Procedure Act and may collect fees for this fund from the sale of  
20 pesticides and fertilizers within the State.

22 §627. Rules, fees

24 1. Rules. The commissioner shall adopt rules in accordance  
26 with the Maine Administrative Procedure Act to implement this  
28 subchapter and to establish fees authorized by this section.

30 2. Fees. The rules must establish fees at a level that  
32 generates at least \$100,000 per year.

34 §628. Expenditures

36 1. Permitted expenditures. The commissioner may authorize  
38 expenses from the Ground Water Contamination Fund for monitoring,  
40 testing and remedial actions, if contamination of ground water  
42 occurs from the use of pesticides, fertilizers or manures and the  
44 commissioner determines that the person responsible for the farm  
46 or farming operations is using best management practices as  
48 provided under Title 17, section 2805, subsection 2.

50 2. Prohibited expenditures. The commissioner may not  
52 authorize expenditures from the fund when chemicals, fertilizers  
or manure are used:

A. By nonagricultural industrial or manufacturing users;

B. By persons not trained or licensed to use them;

C. More frequently than recommended;

D. At the wrong time or for the wrong reason;

E. On an unapproved crop or in an unapproved manner;

F. At too high a concentration; or

G. After registration has been canceled.

2           **Sec. 2. 17 MRSA §2805, sub-§§2 and 4**, as enacted by PL 1981, c.  
472, are amended to read:

4  
6           **2. Best management practices.** A farm or farm operation  
shall may not be considered a public or private nuisance if the  
8 farm or farm operation alleged to be a nuisance conforms to  
~~generally--accepted--agricultural~~ best management practices, as  
10 determined by the Commissioner of Agriculture, Food and Rural  
Resources in accordance with the Maine Administrative Procedure  
Act, Title 5, chapter 375.

12  
14           **4. Application; local ordinances.** This section shall does  
not affect the application of state and federal statutes. An  
16 ordinance of any unit or local government that impacts any  
activity incident to any farm operation may not be adopted unless  
18 the local government has provided a copy of the proposed  
ordinance to the Commissioner of Agriculture, Food and Rural  
Resources 90 days prior to consideration of that ordinance.

20 The commissioner shall advise the local government whether the  
22 proposed ordinance would restrict or prohibit the use of best  
management practices.

24           **Sec. 3. 17 MRSA §2805, sub-§§5 and 6** are enacted to read:

26           **5. Complaint resolution.** The commissioner shall  
28 investigate all complaints involving a farm or farm operation,  
including, but not limited to, complaints involving utilization  
30 of waste products, ground and surface water pollution and insect  
infestations. If the commissioner identifies the source or  
32 sources of the problem, has reason to believe that the source is  
a nuisance and that the nuisance is caused by the use of other  
34 than best management practices, the commissioner shall:

36           A. Determine the changes needed in the farm or farm  
operation to comply with best management practices;

38           B. Advise the person responsible for the farm or farm  
40 operation what changes, as determined in paragraph A, are  
necessary in order to conform with best management practices  
42 and determine subsequently if the changes are implemented;

44           C. Give the findings of the initial investigation and  
subsequent investigations, as well as any determination of  
46 compliance, to the complainant and person responsible; and

48           D. If the person responsible does not adopt best management  
practices, the commissioner shall send a written report to  
50 an appropriate agency if a federal or state law has been  
violated and may refer the matter to the Attorney General.  
52 The Attorney General may institute an action to abate a

