

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1577

H.P. 1083

House of Representatives, April 17, 1991

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

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

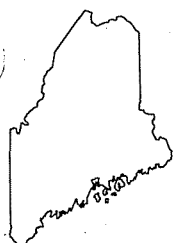
EDWIN H. PERT, Clerk

Presented by Representative ANDERSON of Woodland.
Cosponsored by Representative GOULD of Greenville.

STATE OF MAINE

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

**An Act to Amend Certain Laws Affecting the Department of
Environmental Protection.**



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

2
4 **Sec. 1. 29 MRSA §246-D, sub-§2, ¶E,** as enacted by PL 1989, c. 845, §3 and affected by §15, is amended to read:

6 E. Any motor vehicle used exclusively to transport oil as defined in Title 38, section 542, subsection 6. For the purposes of this section, oil does not include liquefied petroleum gas or liquefied natural gas.

10 **Sec. 2. 32 MRSA §10003, sub-§2,** as amended by PL 1987, c. 410, §4, is further amended to read:

14 **2. Terms of appointment.** The Governor, within 60 days following the effective date of this chapter, shall appoint 3 board members for terms of one year, 3 for terms of 2 years and one for a term of 3 years. The Governor shall appoint by October 1, 1987, a board member from the Maine Chamber of Commerce and Industry for an initial term of one year. Appointments made thereafter shall ~~be~~ are for 3-year terms, but no person except the representative from the Department of Environmental Protection may be appointed to serve more than 2 consecutive terms at any one time. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar days of the year in which they are appointed, before commencing the terms prescribed by this section.

30 Any member of the board may be removed from office for cause by the Governor. A member may not serve more than 2 full successive terms provided that, for this purpose only, a period actually served which that exceeds 1/2 of the 3-year term shall ~~be~~ is deemed a full term.

36 **Sec. 3. 32 MRSA §10012, sub-§1,** as enacted by PL 1985, c. 496, Pt. A, §2, is amended to read:

38 **1. Amount.** Fees and civil penalties may be established by the board in amounts which that are reasonable and necessary for their respective purposes.

42 **Sec. 4. 32 MRSA §10012, sub-§2,** as amended by PL 1989, c. 312, §13, is further amended to read:

46 **2. Disposal of fees and civil penalties.** All fees and civil penalties received by the board related to underground oil storage tank installers or underground gasoline storage tank removers shall must be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. All fees and civil penalties received by the board

2 related to underground hazardous substance storage tank
3 installers shall must be paid to the Treasurer of State to be
4 deposited into the Hazardous Waste Fund and used for the purpose
5 of carrying out all applicable provisions of this chapter. Any
6 balance of fees and civil penalties in the respective accounts
7 shall does not lapse but shall must be carried forward as a
8 continuing account to be expended for the same purposes in the
following fiscal years.

10 **Sec. 5. 38 MRSA §411-A, sub-§4**, as affected by PL 1989, c.
11 890, Pt. A, §40 and amended by Pt. B, §25, is further amended to
12 read:

14 **4. Reimbursement.** The commissioner shall utilize grants
15 under this section to reimburse individuals for the costs of
16 removing any overboard discharge, subject to the provisions of
17 subsection 2, when:

18 A. ~~The removal occurred after June 1, 1987, and prior to the~~
19 ~~effective date of this section;~~

22 (1) After June 1, 1987, but prior to September 30,
23 1989; or

24 (2) After September 30, 1989, but was carried out
25 according to plans and specifications approved by the
26 commissioner in advance of construction;

28 B. The removal resulted in the elimination of sources of
29 contamination to shellfish areas or public nuisance
30 conditions; and

32 C. The removal was the direct result of an unsuccessful
33 licensing application under section 414-A, subsection 1-B or
34 former section 464, subsection 4, paragraph G.

36 **Sec. 6. 38 MRSA §421, last ¶**, as affected by PL 1989, c. 890,
37 Pt. A, §40 and amended by Pt. B, §43, is further amended to read:

40 Notwithstanding this section, if the department determines
41 from an examination of soil conditions, ground water
42 characteristics, climatic conditions, topography, the nature and
43 amount of the solid waste and other appropriate factors, that the
44 deposit of solid waste within an area less than 300 feet from any
45 classified body of surface water, will not result in an
46 unlicensed direct or indirect discharge of pollutants to that
47 body of surface water, it may, after notice, permit the deposit
48 of solid waste within that area, upon terms and conditions as it
49 determines necessary. Permits issued pursuant to this section are
50 for a term of not more than 2 ½ years but may be renewed for

2 successive 2-year 5-year terms after reexamination pursuant to
this chapter.

4 **Sec. 7. 38 MRSA §467, sub-§9, ¶B**, as repealed and replaced by
PL 1989, c. 764, §10, is amended to read:

6 B. Presumpscot River, tributaries - Class A unless
8 otherwise specified.

10 (1) All tributaries entering below the outlet of
Sebago Lake - Class B.

12 (2) Crooked River and its tributaries, except as
14 otherwise provided, excluding existing impoundments and
16 excluding that area of the river previously impounded
at Scribners Mill - Class AA.

18 (3) Stevens Brook (Bridgton) - Class B.

20 (4) Mile Brook (Casco) - Class B.

22 **Sec. 8. 38 MRSA §467, sub-§12, ¶A**, as amended by PL 1989, c.
764, §12, is further amended to read:

24 A. Saco River, main stem.

26 (1) From the Maine-New Hampshire boundary to its
28 confluence with the impoundment of the Swan's Falls Dam
- Class A.

30 (2) From its confluence with the impoundment of the
32 Swan's Falls Dam to a point located 1,000 feet below
the Swan's Falls Dam - Class A.

34 (3) From a point located 1,000 feet below the Swan's
36 Falls Dam to its confluence with the impoundment of the
Hiram Dam - Class AA.

38 (4) From its confluence with the impoundment of the
40 Hiram Dam to a point located 1,000 feet below the Hiram
Dam - Class A.

42 (5) From a point located 1,000 feet below the Hiram
44 Dam to its confluence with the Little Ossipee River -
Class AA.

46 (6) From its confluence with the Little Ossipee River
48 to its confluence with Swan Pond Stream - Class A.

50 (7) From its confluence with Swan Pond Stream to
52 tidewater - Class B.

2 **Sec. 9. 38 MRSA §469, sub-§7, ¶C**, as repealed and replaced by
PL 1989, c. 764, §29, is amended to read:

4 C. Cutler.

6 (1) All tidal waters except those waters in Machias
8 Bay and Little Machias Bay north of a line running from
the town line due east to the southernmost point of
10 Cross Island; thence running northeast to the
southeasternmost point of Cape Wash Island; thence
12 running northeast to the westernmost point of Deer
Island; thence running due north to the mainland; and
14 those waters lying ~~northeast~~ northwest of a line
running from the easternmost point of Western Head to
16 the easternmost point of Eastern Knubble - Class SA.

18 **Sec. 10. 38 MRSA §483-A**, as affected by PL 1989, c. 890, Pt.
A, §40 and amended by Pt. B, §88, is further amended to read:

20 **§483 A. Prohibition**

22 No person may construct or cause to be constructed or
operate or cause to be operated or, in the case of a subdivision,
24 sell or lease, offer for sale or lease or cause to be sold or
leased, any development requiring approval under this article
26 without first having obtained approval for this construction,
operation, lease or sale from the department. A person having an
28 interest in, or undertaking an activity on, a parcel of land
affected by an order or permit issued by the department may not
30 act contrary to that order or permit.

32 **Sec. 11. 38 MRSA §608-A**, as amended by PL 1989, c. 869, Pt.
C, §9 and as affected by c. 890, Pt. A, §40 and amended by Pt. B,
34 §176, is repealed and the following enacted in its place:

36 **§608-A. Soil decontamination**

38 Any rotary drum mix asphalt plant may process up to 10,000
cubic yards of soil contaminated by gasoline or #2 fuel oil per
40 year. The 10,000 cubic yards per year limit may be exceeded with
written authorization from the commissioner. The plant owner or
42 operator shall notify the commissioner at least 24 hours prior to
processing the contaminated soil and specify the contaminating
44 fuel and quantity, origin of the soil and fuel and the
disposition of the contaminated soil. The owner or operator
46 shall maintain records of these activities for 6 years.

48 **Sec. 12. 38 MRSA §1272, sub-§13**, as enacted by PL 1987, c.
448, §1-C, is amended to read:

50 **13. Friable.** "Friable" means ~~materials which may~~ able to
52 be crumbled or pulverized, when dry, by hand pressure. These

2 ~~materials include materials located behind barrier systems and~~
3 ~~materials which have been rendered friable through manipulation.~~
4 Friable also means having been crushed, crumbled, pulverized or
5 reduced to powder by mechanical, physical or chemical means,
6 including deterioration or removal, handling or transportation
7 practices.

8 Sec. 13. 38 MRSA §1305, sub-§6, as amended by PL 1985, c. 27,
9 is further amended to read:

10 6. **Municipal septage sites.** Each municipality shall
11 provide for the disposal of all refuse, effluent, sludge and any
12 other materials from all septic tanks and cesspools located
13 within the municipality. In addition, any person may provide a
14 site for disposal of septage. Before making application to the
15 Department of Environmental Protection for approval of any site,
16 that person shall first have written approval for the site
17 location from the municipality in which it is located. The
18 municipal officers shall approve, after hearing, any such private
19 site if it finds that the site ~~does not constitute a hazard to~~
20 ~~the health or safety of the residents of the municipality~~
21 complies with municipal ordinances and with local zoning and land
22 use controls.

23 Sec. 14. 38 MRSA §1317-A, as enacted by PL 1979, c. 730, §2,
24 is amended to read:

25 **§1317-A. Discharge prohibited**

26 The discharge of hazardous matter ~~into or upon any waters of~~
27 ~~the State, or into or upon any land within the State's~~
28 ~~territorial boundaries or into the ambient air is prohibited~~
29 ~~unless licensed or authorized under state or federal law from a~~
30 primary containment structure or associated piping or equipment
31 including gaseous emissions or spillage into containment
32 structures or areas on site intended to effect spill control and
33 cleanup is prohibited unless licensed or authorized under state
34 or federal law.

35 Sec. 15. 38 MRSA §1319-E, sub-§1, ¶F, as enacted by PL 1989, c.
36 874, §10, is amended to read:

37 F. A one-time allocation of \$100,000 to the department and
38 the Maine Land Use Regulation Commission to develop mining
39 rules pursuant to section 349-A. This allocation must be
40 repaid by any preapplication fees assessed pursuant to
41 section 352, subsection 4-A, ~~or any federal funds received~~
42 ~~by the department to develop mining rules.~~

STATEMENT OF FACT

2
4 This bill requires that those vehicles involved in the transportation of liquefied petroleum gas or liquefied natural gas obtain a hazardous materials transport license.

6
8 The bill removes the term restrictions for the representative from the Department of Environmental Protection on the Board of Underground Oil Storage Tank Installers.

10
12 The bill amends the underground tank installers laws to specify that civil penalties for disciplinary action authorized by Public Law 1989, chapter 845 are to either the Ground Water Oil Cleanup Fund or the Hazardous Waste Fund.

16
18 The bill allows individual or commercial licensed overboard dischargers eligible for a state contribution to the removal of the discharge but not yet on the priority list for this contribution to proceed with the removal and be reimbursed in the future when the specific removal gains a higher position on the priority list.

22
24 The bill increases the permit and permit renewal term for solid waste disposal areas that are within 300 feet of classified surface water from 2 years to 5 years to conform with other solid waste permit and renewal terms.

28
30 The bill makes certain changes to the water classification law. Changes proposed for the Maine Revised Statutes, Title 38, section 467, subsection 9, paragraph B would return Mile Brook in Casco to Class B. This body of water was raised inadvertently to Class A along with other tributaries of the Crooked River. This body of water presently has a licensed state fish hatchery discharging into it. It has not been the intent of reclassification to make an upgrade that would force an existing facility to make significant improvements in treatment. Proposed changes to Title 38, section 467, subsection 12, paragraph A correct the omission of the word stream. The change to Title 38, section 469, subsection 7, paragraph C correctly identifies the waters northwest of a line from Western Head to Eastern Knubble (Cutler Harbor) as Class SB.

42
44 The bill clarifies the department's enforcement authority under the site location and development laws. Provisions of a department order or permit are enforceable against anyone having an interest in, or undertaking an activity on, a parcel of land affected by an order or permit.

48
50 The bill increases the amount of soil contaminated with gasoline or #2 fuel oil that can be processed at rotary drum mix asphalt plants from 500 cubic yards to 10,000 cubic yards per year. The bill also removes the requirement for air emissions tests if the 10,000 cubic yards ceiling is not to be exceeded.

2 The bill amends the definition of "friable" as it pertains
3 to asbestos and asbestos containing materials to also include
4 nonfriable materials that have been crushed or altered in some
5 manner that increases the likelihood of asbestos fibers being
6 released by the materials.

7 The bill amends the municipal approval requirements for
8 privately owned septage disposal sites to be consistent with the
9 municipal ordinances, zoning and land use controls.

10 The bill clarifies the Department of Environmental
11 Protection's interpretation of what constitutes a violation of
12 state law when a discharge of hazardous matter occurs.

13 The bill deletes a requirement that repayments to the
14 Hazardous Waste Fund be made from any federal funds received by
15 the department to develop mining rules. Federal grants may be
16 critical to assist in the continued development of mining rules.
17
18