

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2355

H.P. 1678

House of Representatives, February 18, 1992

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, reading "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ANDERSON of Woodland.

Cosponsored by Representative LORD of Waterboro, Representative AULT of Wayne and
Senator TITCOMB of Cumberland.

STATE OF MAINE

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

**An Act to Establish a Technical and Environmental Compliance
Assistance Program for Businesses and Municipalities.**

(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, the federal Clean Air Act Amendments of 1990
6 require that a small business technical compliance program,
approved by the federal Environmental Protection Agency, be
8 created and operational by November of 1992; and

10 Whereas, the next regular session of the Legislature will
not convene in time to consider legislation to meet the November
12 1992 deadline contained in federal law; and

14 Whereas, the assistance program established by this Act will
aid those regulated by environmental laws and regulations to
16 attain and maintain compliance; and

18 Whereas, this program will enhance and protect the quality
of Maine's environment; and

20 Whereas, this assistance program will expand and enhance the
existing Office of Pollution Prevention established by the
22 Legislature in 1991; and

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

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

32 Sec. 1. 5 MRSA §12004-I, sub-§22-B is enacted to read:

34	<u>22-B.</u>	<u>State</u>	<u>Expenses</u>	<u>38 MRSA</u>
36	<u>Environment:</u>	<u>Environmental</u>	<u>Only</u>	<u>343-C</u>
38	<u>Natural Re-</u>	<u>Compliance</u>		
	<u>sources</u>	<u>Advisory Panel</u>		

40 Sec. 2. 38 MRSA §342, sub-§4, ¶B, as enacted by PL 1991, c.
520, §1, is repealed and the following enacted in its place:

42 B. The Office of Pollution Prevention is established within
44 the department to review department programs and make
46 recommendations to the commissioner on means of integrating
48 pollution prevention into department programs. The Office
50 of Pollution Prevention shall also establish and oversee the
 Technical and Environmental Compliance Assistance Program,
 with recommendations of the State Environmental Compliance
 Advisory Panel, to provide assistance to regulated persons

2 for attaining and maintaining compliance with environmental
3 programs administered by the State.

4 (1) The Office of Pollution Prevention shall:

6 (a) Establish pollution prevention priorities
7 within the department;

8 (b) Coordinate department pollution prevention
9 activities with those of other state agencies and
10 entities;

11 (c) Ensure that rules, programs and activities of
12 the department are consistent with pollution
13 prevention goals and do not hinder pollution
14 prevention initiatives;

15 (d) Provide technical assistance, training and
16 educational activities to assist regulated persons
17 with development and implementation of pollution
18 prevention programs as funds allow;

19 (e) Establish an award program to recognize
20 businesses, local governments, department staff
21 and others that have implemented outstanding or
22 innovative pollution prevention programs,
23 activities or methods;

24 (f) Identify opportunities to use the state
25 procurement system to encourage pollution
26 prevention;

27 (g) Develop procedures to determine the
28 effectiveness of the department's pollution
29 prevention programs and evaluate the impact of the
30 technical assistance activities on the State,
31 local economies and regulated persons; and

32 (h) Assume responsibility for the administration
33 and implementation of chapter 26 and the Technical
34 and Environmental Compliance Assistance Program
35 under section 343-B.

36 **Sec. 3. 38 MRSA §342, sub-§4-A, is enacted to read:**

37 **4-A. Director of the Office of Pollution Prevention. The**
38 **commissioner shall designate a staff member to be the Director of**
39 **the Office of Pollution Prevention.**

2 A. The director is authorized to provide independent
4 testimony to the Legislature and make periodic reports to
6 the Administrator of the federal Environmental Protection
8 Agency for transmittal to the United States Congress.

B. The director is authorized to address internal and
 external problems and concerns.

10 Sec. 4. 38 MRSA §343-B is enacted to read:

12 §343-B. Technical and Environmental Compliance Assistance Program

14 1. Program components. The Technical and Environmental
16 Compliance Assistance Program administered by the Office of
 Pollution Prevention shall include:

18 A. Mechanisms for developing, collecting and coordinating
20 information concerning compliance methods and technologies
 for regulated persons;

22 B. Programs that encourage lawful cooperation among
24 regulated persons;

26 C. Mechanisms to assist regulated persons with pollution
 prevention and accidental release detection and prevention;

28 D. Mechanisms to ensure that regulated persons receive
30 notice of their rights and are informed of their obligations
 under state administered environmental programs;

32 E. A compliance assistance program to help regulated
34 persons determine applicable requirements under
 state-administered environmental programs and receive the
 required permits; and

36 F. Procedures to consider requests from regulated persons
38 to modify work practice or technological compliance methods
40 or the milestones for implementing those methods.

42 2. Other duties. The Office of Pollution Prevention shall
44 carry out additional duties concerning the Technical and
 Environmental Compliance Assistance Program as follows:

46 A. Investigate complaints regarding the Technical and
 Environmental Compliance Assistance Program;

48 B. Operate a telephone hotline to enhance accessibility of
50 the Technical and Environmental Compliance Assistance
 Program to regulated persons;

2 C. Prepare reports periodically on the status of the
4 Technical and Environmental Compliance Assistance Program
for distribution to the public, the Legislature and other
6 appropriate state and federal government agencies; and

8 D. Periodically review with trade associations, municipal
10 organizations and regulated persons the work and services
12 provided by the Technical and Environmental Compliance
14 Assistance Program.

16 Sec. 5. 38 MRSA §343-C is enacted to read:

18 §343-C. State Environmental Compliance Advisory Panel

20 The State Environmental Compliance Advisory Panel,
22 established by Title 5, section 12004-I, subsection 22-B, serves
24 as a review body to assess the progress of the Technical and
26 Environmental Compliance Assistance Program and render advisory
28 opinions on the effectiveness of the program.

30 1. Appointment; composition. The panel consists of 13
32 voting members.

34 A. The Governor shall appoint 4 representatives from the
36 business community and 2 representatives of organized labor.

38 B. The commissioner shall appoint one member to represent
40 the department.

42 C. The President of the Senate shall appoint one member
44 from a public health organization, one member from an
46 environmental organization and one member to represent the
48 general public.

50 D. The Speaker of the House of Representatives shall
52 appoint one member from a public health organization, one
member from an environmental organization and one member to
represent the general public.

2. Terms. The department representative shall serve at the
discretion of the Commissioner of Environmental Protection with
no term limitations. All other appointed members are appointed
for staggered terms of 3 years. The President of the Senate and
the Speaker of the House of Representatives shall each appoint
one member for a one-year initial term, one member for a 2-year
initial term and one member for a 3-year initial term. The
Governor shall appoint 2 members for one-year initial terms, 2
members for 2-year initial terms and 2 members for 3-year initial
terms. A vacancy must be filled by the same appointing authority
that made the original appointment. Appointed members may not
serve more than 2 3-year terms.

2 3. Compensation. Members are entitled to compensation for
3 expenses according to Title 5, section 12004-I, subsection 22-B.

4 4. Quorum; actions. A quorum is a majority of the voting
5 members of the panel. An affirmative vote of the majority of the
6 members present at a meeting is required for any action. Action
7 may not be considered unless a quorum is present.

8 5. Chair. The Governor shall appoint one member to serve
9 as chair.

10 6. Meetings. The panel shall meet at least 4 times per
11 year and at any time at the call of the chair or upon written
12 request to the chair by 4 of the voting members.

13 7. Staff support. The commissioner shall provide the panel
14 with staff support.

15 8. Duties; powers. The panel may:

16 A. Review the Technical and Environmental Compliance
17 Assistance Program, render advisory opinions to the
18 department on the effectiveness of the program and recommend
19 revisions, if appropriate;

20 B. Review the information provided by the Technical and
21 Environmental Compliance Assistance Program to ensure that
22 the information is understandable to the general public;

23 C. Prepare periodic reports to the Governor on the
24 compliance status of the Technical and Environmental
25 Compliance Assistance Program. The reports are then
26 forwarded to the federal Environmental Protection Agency
27 complying with the requirements of the federal Paperwork
28 Reduction Act of 1980, Public Law 96-511, as amended, the
29 federal Regulatory Flexibility Act, 5 United States Code,
30 Sections 601 to 612 and the federal Equal Access to Justice
31 Act, Public Law 96-481, as amended; and

32 D. Submit any recommendations for statutory changes to the
33 joint standing committee of the Legislature having
34 jurisdiction over energy and natural resources matters.

35 Sec. 6. 38 MRSA §361-A, sub-§3-C is enacted to read:

36 3-C. Regulated person. "Regulated person" means a person
37 as defined in subsection 4 who is regulated by the environmental
38 laws and rules administered by the State.

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

6
8 **STATEMENT OF FACT**

10 This bill establishes within the Department of Environmental
12 Protection, Office of Pollution Production, the Technical and
14 Environmental Compliance Assistance Program to help businesses
16 and municipalities comply with environmental laws involving the
18 air, land and water. The federal Clean Air Act Amendments of
20 1990 require states to establish a technical and environmental
22 compliance assistance program for small businesses by November
24 1992.

 This bill also creates the State Environmental Compliance
Advisory Panel to assess the progress of the Technical and
Environmental Compliance Assistance Program and to render
advisory opinions on the effectiveness of the program.