

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 368

H.P. 281

House of Representatives, February 9, 1993

**An Act to Require Greater Accountability on the Part of the Department
of Environmental Protection.**

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representatives: ANDERSON of Woodland, BAILEY of Farmington, CARON of Biddeford, CARR of Sanford, CLARK of Millinocket, CLUKEY of Houlton, DEXTER of Kingfield, DiPIETRO of South Portland, DUTREMBLE of Biddeford, FARNUM of South Berwick, GOULD of Greenville, HUSSEY of Milo, JACQUES of Waterville, KERR of Old Orchard Beach, LOOK of Jonesboro, MARSHALL of Eliot, MORRISON of Bangor, MURPHY of Berwick, PLOURDE of Biddeford, POULIOT of Lewiston, RAND of Portland, ROTONDI of Athens, STEVENS of Sabattus, STROUT of Corinth, TARDY of Palmyra, THOMPSON of Lincoln, Senators: BERUBE of Androscoggin, FOSTER of Hancock, KIEFFER of Aroostook, TITCOMB of Cumberland.

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

4 Sec. 1. 38 MRSA §347-A, sub-§6 is enacted to read:

6 6. Attorney's fees and costs. Whenever the commissioner,
8 pursuant to subsection 1, determines after investigation that
10 there is or has been a violation of this Title, of rules adopted
12 under this Title or of the terms or conditions of any board or
14 commissioner license, permit or order and it is determined, after
16 prosecution of the violation pursuant to subsection 1, paragraph
B, after an enforcement hearing on the alleged violation pursuant
to subsection 1, paragraph C and subsection 2 or after final
judgment in a civil action initiated pursuant to subsection 1,
paragraph D and section 342, subsection 7, that no violation
exists or occurred, the department shall pay the prevailing
party's attorney's fees and costs.

18 STATEMENT OF FACT

20 The purpose of this bill is to make the Department of
22 Environmental Protection conduct a more thorough investigation
24 into an alleged violation before sending a notice of violation to
26 a person, sole proprietorship, partnership, corporation or other
28 corporate entity. The bill does so by making the Department of
Environmental Protection accountable for its investigation
efforts through requiring the department to pay the alleged
violator's legal fees and costs when it is determined that there
is or was no such violation.