

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

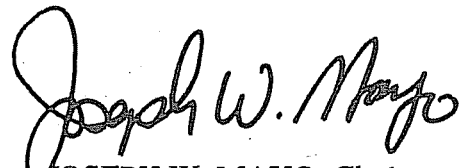
No. 1791

H.P. 1328

House of Representatives, January 27, 1994

**An Act to Prohibit the Location of New Groundwater Drinking Water
Supply Wells in Close Proximity to Potential Contamination Sources.**

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.


JOSEPH W. MAYO, Clerk

Presented by Representative ANDERSON of Woodland.

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

2
4 **Sec. 1. 22 MRSA §2601, sub-§7-A is enacted to read:**

6 **7-A. Potential groundwater contamination source.**

8 "Potential groundwater contamination source" means any of the
10 following:

12 A. Underground oil storage facilities as defined in Title
14 38, section 562-A, subsection 21 and underground hazardous
16 substance storage facilities registered with the Department
18 of Environmental Protection;

20 B. Aboveground oil or other flammable liquid storage tanks
22 and facilities permitted by the State Fire Marshal;

24 C. Aboveground heating oil storage tanks exceeding 1,320
26 gallons cumulative capacity;

28 D. Hazardous waste storage, treatment or disposal
30 facilities licensed by the Department of Environmental
32 Protection;

34 E. Uncontrolled hazardous substance sites as defined in
36 Title 38, section 1362, subsection 3;

38 F. Oil terminal facilities as defined in Title 38, section
40 542, subsection 7 licensed by the Department of
42 Environmental Protection;

44 G. Waste oil storage facilities licensed by the Department
46 of Environmental Protection;

48 H. Solid waste disposal facilities as defined in Title 38,
50 section 1303-C, subsection 30 licensed by the Department of
 Environmental Protection;

I. Closed and abandoned municipal solid waste landfills
 listed with the Department of Environmental Protection;

J. Sludge and septage landspreading sites licensed by the
 Department of Environmental Protection; and

K. Junkyards licensed by the Department of Environmental
 Protection or permitted by the municipality or, when an
 unorganized township, the county.

Sec. 2. 22 MRSA §2616-A is enacted to read:

§2616-A. Prohibition on location and establishment of new
 groundwater drinking water supply wells in certain areas

2 1. Prohibition. A new groundwater drinking water supply
4 well or source may not be located within the applicable setback
6 distance from a potential groundwater contamination source as
8 defined in section 2601, subsection 7-A. The setbacks are:

10 A. Two thousand feet for a community public water system;

12 B. One thousand feet for a noncommunity public water
14 system; and

16 C. Three hundred feet for a private drinking water system.

18 2. Exemptions. The location and establishment of a new
20 groundwater drinking supply well or source is exempt from the
22 prohibition in subsection 1 if:

24 A. The source is intended for use as a public water system,
26 the location of the source is supervised by a Maine
28 certified geologist who determines, through the use of
30 extended pump tests or other hydrogeological investigation
32 methods, that the source is not contaminated and is not at
34 significant risk of contamination above the state or federal
36 primary drinking water standards, maximum contamination
38 levels or maximum exposure guidelines approved by the
40 department pursuant to section 2612;

42 B. The source is intended for use as a private water system
44 supply well, a Maine certified geologist has determined that
46 the source is not contaminated and not at significant risk
48 of contamination from existing nearby potential groundwater
50 contamination sources. The landowner or person causing the
 location and establishment of the new private water system
 well shall obtain written certification of this
 determination that must be available for inspection upon
 request by the well driller, representatives of the
 department, representatives of the Department of
 Environmental Protection, the Maine Water Well Drilling
 Commission and the municipality or, in an unorganized
 township, the Maine Land Use Regulation Commission; or

C. The new private water system supply well is intended to
 serve the needs of a facility that is a potential
 groundwater contamination source as defined in section 2601,
 subsection 7-A and the new private water system supply well
 can not be physically located outside the setbacks specified
 in subsection 1.

Sec. 3. 32 MRSA §4700-H, sub-§4, as amended by PL 1993, c. 25,
 §9 and affected by §15, is further amended to read:

2 4. **Revoke registration.** If the commission determines a
violation of this chapter, the well driller code of performance
4 or other laws and rules in effect, including the water well
information laws, Title 12, section 550-B and the water well
6 setback requirements, Title 22, section 2616-A, has occurred, the
commission shall notify the responsible water well driller and
8 pump installer by certified or registered mail of the violation
and order them to correct the violation within a period of 60
10 days following receipt of notification. If the violation is not
corrected within 60 days, the commission may revoke the
12 registration of the responsible party or parties. A registrant
who receives a written notice of a violation or of a revocation
14 of registration under this subsection may request a hearing
before the commission. The commission shall conduct such
16 hearings and issue its decision within 30 days of the request. A
decision of the commission under this subsection is a final
agency action.

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20 **Sec. 4. 38 MRSA §548,** as amended by PL 1991, c. 817, §10, is
further amended by adding at the end a new paragraph to read:

22 When a new public or private groundwater supply well or
24 source located in violation of Title 22, section 2616-A is
contaminated by oil, neither the commissioner nor the responsible
26 parties is obligated by this section to replace or treat the
impacted water supply system. This exception does not limit or
28 change any other cleanup or removal responsibilities of a party
that is responsible for a discharge of oil.

30 **Sec. 5. 38 MRSA §551, sub-§2, ¶M** is enacted to read:

32 M. A claimant is not eligible for an award of economic
34 damages directly or indirectly as the result of a discharge
of oil to groundwater prohibited by section 543 if the
36 claimant's water supply source is not located in accordance
with Title 22, section 2616-A. A responsible party is not
38 eligible to file a claim for damages resulting from a
discharge for which that party is partly liable if the
contaminated water supply source is subject to Title 22,
40 section 2616-A and, notwithstanding the exemption specified
in Title 22, section 2616-A, subsection 2, paragraph C, is
42 located within the setback distances specified in that
section.

44 **Sec. 6. 38 MRSA §568, sub-§2-A** is enacted to read:

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48 2-A. Limitation on cleanup responsibility. If a new
groundwater supply well or source, located in violation of the
48 requirements of Title 22, subsection 2616-A, is contaminated by
50 oil, neither the commissioner nor the responsible parties are

2 obligated by subsections 1 and 2 to replace or to treat the
4 impacted private or public water system. This subsection does
6 not limit or change the other cleanup and removal
8 responsibilities of a party responsible for a discharge of oil,
10 as specified in subsections 1 and 2, including but not limited to
12 the remediation of contaminated soils and groundwater to the
14 satisfaction of the commissioner.

16 Sec. 7. 38 MRSA §569-A, sub-§2, ¶L is enacted to read:

18 L. A claimant is not eligible for an award of economic
20 damages directly or indirectly as the result of a discharge
22 of oil to groundwater prohibited by section 543 if the
24 claimant's water supply source is not located in accordance
26 with Title 22, section 2616-A. A responsible party is not
28 eligible to file a claim for damages resulting from a
30 discharge for which that party is partly liable if the
32 contaminated water supply source is subject to Title 22,
34 section 2616-A and, notwithstanding the exemption specified
36 in Title 22, section 2616-A, subsection 2, paragraph C, is
38 located within the setback distances specified in that
40 section.

42 Sec. 8. 38 MRSA §569-B, sub-§2, ¶G is enacted to read:

44 G. A claimant is not eligible for an award of economic
46 damages directly or indirectly as the result of a discharge
48 of oil to groundwater prohibited by section 543 if the
50 claimant's water supply source is not located in accordance
52 with Title 22, section 2616-A. A responsible party is not
54 eligible to file a claim for damages resulting from a
56 discharge for which that party is partly liable if the
58 contaminated water supply source is subject to Title 22,
60 section 2616-A and, notwithstanding the exemption specified
62 in Title 22, section 2616-A, subsection 2, paragraph C, is
64 located within the setback distances specified in that
66 section.

68 Sec. 9. Effective date. This Act takes effect January 1, 1995.

70 STATEMENT OF FACT

72 This bill defines "potential groundwater contamination
74 source" and prohibits the location and establishment of new
76 groundwater drinking water supply wells within specified
78 distances from potential contamination sources.

2 The bill amends the Maine Revised Statutes, Title 32,
3 section 4700-H to include violation of the proposed water well
4 setback requirements as a reason for revoking a well driller's
5 registration.

6 The bill amends Title 38, sections 548 and 568 of the oil
7 discharge prevention and pollution control laws to limit the
8 responsibilities of the Commissioner of Environmental Protection
9 and responsible parties for the treatment or replacement of wells
10 located in violation of the water well setback requirements.

11 The bill also amends the 3rd-party damage provisions of
12 Title 38, sections 551, 569-A and 569-B to exclude from coverage
13 claims associated with the contamination of wells located in
14 violation of the water well setback requirements.

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25 This document has not yet been reviewed to determine the
26 need for cross-reference, stylistic and other technical
27 amendments to conform existing law to current drafting standards.