

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 928

H.P. 677

House of Representatives, March 21, 1995

**An Act to Encourage Compliance with Environmental Laws
Administered by the Department of Environmental Protection.**

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

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

JOSEPH W. MAYO, Clerk

Presented by Representative POULIN of Oakland.

Cosponsored by Representatives: BERRY of Livermore, DEXTER of Kingfield, GOULD of Greenville, JACQUES of Waterville, MARSHALL of Eliot, Senators: LORD of York, RUHLIN of Penobscot.

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

2
4 **Sec. 1. 38 MRSA §343-C, sub-§1**, as enacted by PL 1991, c. 804,
Pt. C, §3, is amended to read:

6 **1. Program components.** The program must:

8 A. Provide for the development, collection and coordination
10 of information concerning compliance methods and
technologies;

12 B. Provide for the encouragement of lawful cooperation
14 among persons engaged in activities regulated by the
department;

16 C. Provide assistance with pollution prevention and
accidental release detection and prevention;

18 D. Ensure that a person engaging in an activity that is
20 subject to regulation by the department is informed of that
22 person's rights and obligations under environmental programs
administered by the department, and assist persons in
24 determining the applicable permitting and programmatic
requirements of the department; and

26 E. Develop procedures to consider requests from regulated
28 persons to modify work practice or technological compliance
methods or the milestones for implementing those methods.

30 ~~Any instance of noncompliance identified as a result of a person~~
32 ~~requesting assistance through the program must be corrected by~~
~~that person. The commissioner is not required to initiate a~~
34 ~~formal enforcement action against a person found to be in~~
~~noncompliance as a result of a request for assistance through the~~
36 ~~program.~~

38 **Sec. 2. 38 MRSA §343-C, sub-§4** is enacted to read:

40 **4. Identified noncompliance.** If department staff, while
rendering assistance to a small business under this program, find
that the business is not in compliance with this Title, including
42 failure to obtain required environmental licenses, the department
may not initiate an enforcement action against that business if
44 the noncompliance has not resulted in substantial environmental
harm and is corrected within 90 days after identification.

46 A. The department may extend the 90-day correction period
48 for an additional period not to exceed 90 days if the
business enters into a written agreement with the department

2 setting forth the steps to be taken by the business to
3 achieve compliance within the additional time period.

4 B. This subsection does not apply to any noncompliance
5 identified by department staff prior to the rendering of
6 assistance by the program.

8 C. This subsection does not prohibit the department from
9 initiating an action to enjoin an imminent and substantial
10 endangerment to human health or the environment or to
11 address recurrence of any noncompliance following the
12 correction period.

14 D. The department may collect annual license fees, license
15 renewal fees and emission fees that were avoided by the
16 failure of the small business to acquire the appropriate
17 license for the period of time during which the business
18 operated without a license.

20 E. For purposes of this subsection, "small business" means
21 a business that:

22 (1) Is owned and operated by a person who employs not
23 more than 100 individuals;

26 (2) Does not own or operate a source that actually
27 emits a quantity of regulated pollutant that is
28 considered a significant emission as defined by
29 department rules;

30 (3) Does not emit 50 tons or more per year of any
31 single air pollutant regulated by the department; and

34 (4) Emits less than 75 tons per year of all air
35 pollutants regulated by the department.

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STATEMENT OF FACT

40 This bill encourages small businesses to seek assistance
41 from the Department of Environmental Protection by ensuring them
42 that the department will not prosecute a company for minor
43 violations, including failure to obtain a license, that are found
44 by department staff while they are rendering assistance. The
45 violations must be remedied within 90 days of their discovery and
46 the business must pay back license fees for any period during
 which the business operated without a license.