

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1997

Legislative Document

No. 1927

S.P. 692

In Senate, December 8, 1997

**An Act to Amend the Laws Regarding Tax Exemptions for Pollution
Control Equipment.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 8, 1997. Referred to the Committee on Taxation and ordered printed pursuant to Joint Rule 308.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CAREY of Kennebec.

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

2
3 **Sec. 1. 36 MRSA §656, sub-§1, ¶E,** as amended by PL 1989, c.
4 890, Pt. A, §9 and affected by §40, is further amended to read:

6 E. Pollution control facilities.

8 (1) Water pollution control facilities having a
9 capacity to handle at least 4,000 gallons of waste per
10 day, certified as such by the Commissioner of
11 Environmental Protection, and all parts and accessories
12 thereof.

14 As used in this paragraph subparagraph, unless the
15 context otherwise indicates, the following terms have
16 the following meanings.

18 (a) "Facility" means any disposal system or any
19 treatment works, appliance, equipment, machinery,
20 installation or structures installed, acquired or
21 placed in operation primarily for the primary
22 purpose of preventing, reducing, controlling or
23 eliminating water pollution caused by industrial,
24 commercial or domestic waste, whether or not any
25 such disposal system or treatment works,
26 appliance, equipment, machinery, installation or
27 structures is used as part of an industrial
28 production process or replaces existing
29 equipment. For the purposes of this division, the
30 commissioner shall consider the taxpayer's intent
31 in determining the primary purpose.

32 (b) "Disposal system" means any system used
33 primarily for disposing of or isolating
34 industrial, commercial or domestic waste and
35 includes thickeners, incinerators, pipelines or
36 conduits, pumping stations, force mains and all
37 other constructions, devices, appurtenances and
38 facilities used for collecting or conducting water
39 borne waterborne industrial, commercial or
40 domestic waste to a point of disposal, treatment
41 or isolation, ~~except that which is necessary to~~
42 ~~the manufacture of products.~~

44 (c) "Industrial waste" means any liquid, gaseous
45 or solid waste substance capable of polluting the
46 waters of the State and resulting from, or used in
47 or as part of, any process, or the development of
48 any process, of industry or manufacture.

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(d) "Treatment works" means any plant, pumping station, reservoir or other works used primarily for the purpose of treating, stabilizing, isolating or holding industrial, commercial or domestic waste.

(e) "Commercial waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any activity which that is primarily commercial in nature.

(f) "Domestic waste" means any liquid, gaseous or solid waste substance capable of polluting the waters of the State and resulting from any activity which that is primarily domestic in nature.

(g) "Waste" means industrial, commercial or domestic waste.

(2) Air pollution control facilities, certified as such by the Commissioner of Environmental Protection, and all parts and accessories thereof.

As used in this paragraph subparagraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Facility" means any appliance, equipment, machinery, installation or structures installed, acquired or placed in operation primarily for the primary purpose of reducing, controlling, eliminating or disposing of industrial air pollutants, whether or not any such disposal system or treatment works, appliance, equipment, machinery, installation or structures is used as part of an industrial production process or replaces existing equipment. For the purposes of this division, the commissioner shall consider the taxpayer's intent in determining the primary purpose.

Facilities such as air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of that person ~~shall~~ are not be-deemed considered air pollution control facilities.

(3) The Commissioner of Environmental Protection shall issue a determination regarding certification by April

2 1st for any air or water pollution control facility for
3 which it has received a complete application by
4 December 15th of the preceding year.

5 **Sec. 2. 36 MRSA §1760, sub-§29, ¶¶A and B,** as amended by PL
6 1973, c. 575, §1, are further amended to read:

7 A. "Disposal system" means any system used primarily for
8 disposing of or isolating industrial or other waste and
9 includes thickeners, incinerators, pipelines or conduits,
10 pumping stations, force mains and all other constructions,
11 devices, appurtenances and facilities used for collecting or
12 conducting ~~water-borne~~ waterborne industrial or other waste
13 to a point of disposal, treatment or isolation, ~~except that~~
14 ~~which is necessary to the manufacture of products.~~

15 B. "Facility" means any disposal system or any treatment
16 works, appliance, equipment, machinery, installation or
17 structures installed, acquired or placed in operation
18 primarily for the primary purpose of preventing, reducing,
19 controlling or eliminating water pollution caused by
20 industrial or other waste, except whether or not any such
21 disposal system or treatment works, appliance, equipment,
22 machinery, installation or structures is used as part of an
23 industrial protection process or replaces existing
24 equipment. Facility excludes septic tanks and the pipelines
25 and leach fields connected or appurtenant thereto. For the
26 purposes of this paragraph, the commissioner shall consider
27 the taxpayer's intent in determining the primary purpose.

28 **Sec. 3. 36 MRSA §1760, sub-§29, ¶C,** as enacted by PL 1969, c.
29 471, is amended to read:

30 C. "Industrial waste" means any liquid, gaseous or solid
31 waste substance capable of polluting the waters of the State
32 and resulting from any process, or the development of any
33 process, of industry or manufacture.

34 **Sec. 4. 36 MRSA §1760, sub-§30, ¶A,** as amended by PL 1973, c.
35 575, §2, is further amended to read:

36 A. "Facility" means any appliance, equipment, machinery,
37 installation or structures installed, acquired or placed in
38 operation primarily for the primary purpose of preventing,
39 reducing, controlling, eliminating or disposing of
40 industrial or other air pollutants, whether or not any such
41 disposal system or treatment works, appliance, equipment,
42 machinery, installation or structure is used as part of an
43 industrial production process or replaces existing

2 equipment. For the purposes of this paragraph, the
3 commissioner shall consider the taxpayer's intent in
4 determining the primary purpose.

6 Facilities such as air conditioners, dust collectors, fans
7 and similar facilities designed, constructed or installed
8 solely for the benefit of the person for whom installed or
9 the personnel of such that person, and facilities designed
10 or installed for the reduction or control of automobile
11 exhaust emissions shall are not be--deemed considered air
12 pollution control facilities for purposes of this subsection.

14 SUMMARY

16 This bill clarifies that equipment may qualify as a
17 pollution control facility even if it is used as part of an
18 industrial production process, and that the Commissioner of
19 Environmental Protection must consider the taxpayer's intent in
20 determining the primary purpose of the equipment. This bill
21 clarifies that equipment may qualify even if the equipment does
22 not further reduce pollution, but merely replaces existing
equipment.