

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2075

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H.P. 1476

House of Representatives, January 20, 1998

**Resolve, to Allow David Prentiss to Sue the State of Maine.**

(EMERGENCY)

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

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative O'NEAL of Limestone.  
Cosponsored by Senator KIEFFER of Aroostook and  
Representatives: SIROIS of Caribou, WHEELER of Bridgewater.

2           **Emergency preamble.** Whereas, Acts and resolves of the  
Legislature do not become effective until 90 days after  
adjournment unless enacted as emergencies; and

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6           **Whereas,** David Prentiss owns business property that was  
incorrectly labeled as contaminated by the Department of  
Environmental Protection; and

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10          **Whereas,** although the Department of Environmental Protection  
corrected the error, David Prentiss incurred substantial loss due  
to the mislabeling error; and

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14          **Whereas,** because David Prentiss' livelihood was so gravely  
affected, this legislation needs to be enacted as an emergency  
measure in order for court action to commence in a timely manner;  
and

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

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22          **Sec. 1. David Prentiss; authorized to sue the State. Resolved:**  
That, notwithstanding any statutes or common laws to the  
contrary, David Prentiss, who claims to have suffered damages as  
a result of an error by the Department of Environmental  
Protection, is authorized to bring suit against the State and  
against individual past and present employees of the Department  
of Environmental Protection who are covered by liability  
insurance.

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26          This action must be brought within one year from the passage  
of this resolve in the Aroostook County Superior Court.  
Liability and damages including punitive damages must be  
determined according to state law, as in litigation between  
individuals.

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30          Any judgment costs and interest recovered in this civil  
action are payable from the State Treasury within 30 days of an  
execution being issued by the Aroostook County Superior Court.  
Recovery may not exceed \$250,000, including costs against the  
State, and may not exceed the amount of liability insurance  
coverage of individual employees of the Department of  
Environmental Protection. Hearing must be before a Justice of  
the Superior Court, with or without jury. The action is governed  
by the Maine Rules of Civil Procedure.

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48          **Emergency clause.** In view of the emergency cited in the  
preamble, this resolve takes effect when approved.

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## SUMMARY

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6 This resolve authorizes David Prentiss to sue the State and  
individual past and present employees of the Department of  
Environmental Protection who are covered by a liability insurance  
8 policy or policies. The resolve authorizes David Prentiss to  
recover damages up to \$250,000 that were incurred due to the  
10 mislabeling by the Department of Environmental Protection of his  
business property as contaminated.