

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1774

H.P. 1245

House of Representatives, March 9, 1999

**An Act to Amend Environmental Penalties to Prohibit Fines on  
First-time Violators.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KASPRZAK of Newport.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: GILLIS of Danforth, JODREY of Bethel, JOY of Crystal, MENDROS of  
Lewiston, RICHARDSON of Greenville, SNOWE-MELLO of Poland.

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

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3       **Sec. 1. 38 MRSA §347-A, sub-§1**, as repealed and replaced by PL  
4 1993, c. 204, §1, is amended to read:

6       **1. General procedures.** This subsection sets forth  
7 procedures for enforcement actions.

8       A. Whenever it appears to the commissioner, after  
9 investigation, that there is or has been a violation of this  
10 Title, of rules adopted under this Title or of the terms or  
11 conditions of a license, permit or order issued by the board  
12 or the commissioner, the commissioner may initiate an  
13 enforcement action by taking one or more of the following  
14 steps:

15               (1) Resolving the violation through an administrative  
16 consent agreement pursuant to subsection 4, signed by  
17 the violator and approved by the board and the Attorney  
18 General;

19               (2) Referring the violation to the Attorney General  
20 for civil or criminal prosecution;

21               (3) Scheduling and holding an enforcement hearing on  
22 the alleged violation pursuant to subsection 2; or

23               (4) With the prior approval of the Attorney General,  
24 initiating a civil action pursuant to section 342,  
25 subsection 7.

26       B. Before initiating a civil enforcement action pursuant to  
27 paragraph A, the commissioner shall issue a notice of  
28 violation to the person or persons the commissioner  
29 considers likely to be responsible for the alleged violation  
30 or violations. The notice of violation must describe the  
31 alleged violation or violations, to the extent then known by  
32 the commissioner; cite the applicable law, rule and term or  
33 condition of the license, permit or order alleged to have  
34 been violated; and provide time periods for the alleged  
35 violator to take necessary corrective action and to respond  
36 to the notice. For violations the commissioner finds to be  
37 minor, the notice may state that further enforcement action  
38 will not be pursued if compliance is achieved within the  
39 time period specified in the notice or under other  
40 appropriate circumstances. The commissioner is not required  
41 to issue a notice of violation before issuing an emergency  
42 order pursuant to subsection 3 or other applicable provision  
43 of this Title; nor is the commissioner required to issue a  
44 notice of violation before referring an alleged violation to  
45 the Attorney General for criminal prosecution or in a matter  
46 requiring immediate enforcement action.

2 First-time violators may not be fined unless the commissioner  
4 finds that the violation was willful or the violator refuses to  
6 work with the department to correct any environmental damage that  
may have occurred and to ensure that no such further damage  
occurs.

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### SUMMARY

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12 This bill prohibits the levying of fines on first-time  
14 violators of environmental laws as long as the violation was not  
willful and the violator agrees to work with the Department of  
Environmental Protection to correct any damage that may have  
occurred.