

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1012

S.P. 301

In Senate, February 20, 2001

An Act to Safeguard Production of Groundwater.

(EMERGENCY)

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

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.
Cosponsored by Representative CLOUGH of Scarborough and
Senators: FERGUSON of Oxford, MITCHELL of Penobscot, O'GARA of Cumberland,
SHOREY of Washington, Representatives: STEDMAN of Hartland, BRYANT of Dixfield,
LABRECQUE of Gorham, MORRISON of Baileyville, TOBIN of Windham.

2 well drilling under the direct supervision of a master or
journeyman well driller.

4 1-A. Apprentice pump installer. "Apprentice pump
installer" means a person who is engaged to work at and learn the
6 trade of water well pump installation under the direct
supervision of a master or journeyman pump installer. A person
8 who is licensed under chapter 49 as a master plumber is not
required to register with the commission as an apprentice pump
10 installer.

12 2. Commission. "Commission" means the Maine Water Well
Drilling Commission created under section 4700-G.

14 3. Department. "Department" means the Department of Human
16 Services.

18 ~~3-A. Geotechnical driller. "Geotechnical driller" means a~~
~~person doing the work of drilling, driving or boring ground-water~~
~~monitoring wells.~~
20

22 3-B. Journeyman pump installer. "Journeyman pump
installer" means a person doing the work of pump installation,
24 repair or replacement in water wells who is in the employment of
a master pump installer. A person who is licensed under chapter
26 49 as a master plumber is not required to register with the
commission as a journeyman pump installer.

28 4. Journeyman well driller. "Journeyman well driller"
30 means a person doing the work of drilling, driving or boring
wells who is in the employment of a master well driller.

32 4-A. Master pump installer. "Master pump installer" means
34 a person, firm or corporation engaged in the installation,
replacement or repair of a pump in a water well. The licensure
36 of a master pump installer under this chapter must specify the
name of the person licensed. In the case of a firm, the person
38 licensed as a master pump installer must be a member or employee
of the firm. In the case of a corporation, the person licensed
40 as a master pump installer must be an employee of the corporation
or an officer of the corporation. A person who is licensed under
42 chapter 49 as a master plumber is not required to register with
the commission as a master pump installer.

44 5. Master well driller. "Master well driller" means a
46 person, firm or corporation engaged in the business of drilling,
driving or boring wells. The registration licensure of a master
48 well driller under this chapter must specify the name of the
person registered licensed. In the case of a firm, the person
50 registered licensed as a master well driller must be a member or

2 employee of the firm. In the case of a corporation, the person
3 ~~registered~~ licensed as a master well driller must be an employee
4 of the corporation or an officer of the corporation.

6 **6. Pump or pump system.** "Pump" or "pump system" means
7 mechanical equipment or a device used to remove water from a well
8 including all piping and wiring up to the existing equipment in
9 the structure.

10 **6-A. Pump installation company.** "Pump installation
11 company" means a person, firm, partnership or corporation that is
12 engaged in the trade of water well pump installation, repair or
13 replacement.

14 **7. Pump installer.** "~~Pump installer~~" means ~~a person, firm~~
15 ~~or corporation that performs the initial installation of a pump~~
16 ~~in a well. The registration of a pump installer under this~~
17 ~~chapter must specify the name of the person registered. In the~~
18 ~~case of a firm, the person registered as a pump installer must be~~
19 ~~a member or employee of the firm. In the case of a corporation,~~
20 ~~the person registered as a pump installer must be an employee of~~
21 ~~the corporation or an officer of the corporation. The term "pump~~
22 ~~installer" does not include a person, firm or corporation that~~
23 ~~removes, replaces or repairs a pump in an existing well. A~~
24 ~~person who is licensed under chapter 49 as a master plumber is~~
25 ~~not required to register with the commission as a pump installer~~
26 an apprentice pump installer, journeyman pump installer or master
27 pump installer.

30 **8. Well or water well.** "Well" or "water well" means any
31 hole drilled, driven or bored into the earth used to extract
32 drinking water. The terms "well" and "water well" do not include:

- 34 A. Dug wells;
- 36 B. Monitoring wells;
- 38 C. Wells constructed exclusively for the relief of artesian
39 pressure at hydroelectric projects;
- 40 D. Wells constructed for temporary dewatering purposes;
- 42 E. Wells constructed for the purposes of extracting oil,
43 gas or brine; and
- 44 F. Wells on private property for private use that are
45 constructed by the property owner or lessee of the property.

48 **9. Well driller.** "Well driller" means an apprentice well
49 driller, journeyman well driller or master well driller.

2 **11. Well drilling company.** "Well drilling company" means a
3 person, firm, partnership or corporation that owns or otherwise
4 operates any mechanical equipment used to drill, drive or bore
5 water wells.

6
7 **Sec. B-3. 32 MRSA §4700-G, sub-§1,** as enacted by PL 1991, c.
8 455, Pt. B, §1, is amended to read:

9
10 **1. Establishment of commission.** The Maine Water Well
11 **Drilling Commission**, as authorized by Title 5, chapter 379, is
12 established to carry out the provisions of this chapter. The
13 purpose of the commission is to provide the public with the
14 highest quality drinking water possible by ensuring that water
15 wells are drilled, constructed, altered or abandoned in a manner
16 that protects ~~ground-water~~ groundwater from contamination.

17 **Sec. B-4. 32 MRSA §4700-G, sub-§2,** as amended by PL 1999, c.
18 556, §28, is further amended to read:

19
20 **2. Membership.** The commission consists of the Director of
21 the Division of Health Engineering within the Department of Human
22 Services or the director's designee; the Director of the Bureau
23 of Geology and Natural Areas within the Department of
24 Conservation or the director's designee; the Commissioner of
25 Transportation or the commissioner's designee; and 4 public
26 members, 3 of whom must be well drillers. ~~One well-driller must~~
27 ~~be a geotechnical driller.~~

28
29 **Sec. B-5. 32 MRSA §4700-G, sub-§§3 and 5,** as enacted by PL
30 1991, c. 455, Pt. B, §1, are amended to read:

31
32 **3. Appointing authority.** The Governor shall appoint the
33 public members. Members who are well drillers must be appointed
34 from among nominees selected by the Governor or the Maine Ground
35 Water Well Association.

36
37 **5. Terms of office.** The term of the public members is 5
38 years. Terms must be staggered so that no more than 2 public
39 member terms expire in any one year. Members who are not public
40 members serve a term coincident with their term of office. The
41 Governor shall fill any vacant seat on the commission by a
42 qualified person for the remainder of the unexpired term. A
43 member of the commission may be removed from office for cause by
44 the Governor.

45
46 **Sec. B-6. 32 MRSA §4700-G, sub-§7, ¶A,** as enacted by PL 1991,
47 c. 455, Pt. B, §1, is amended to read:

2 A. The names and addresses of all persons ~~registered~~
3 licensed under this chapter; and

4 **Sec. B-7. 32 MRSA §4700-H, sub-§§2 and 3**, as enacted by PL
5 1991, c. 455, Pt. B, §1, are amended to read:

6
7 **2. License well drillers, well drilling companies, pump**
8 **installers and pump installation companies.** The commission shall
9 register license well drillers and, well drilling companies, pump
10 installers and pump installation companies and may initiate
11 action for the revocation or suspension of such ~~registrations~~
12 licenses.

13
14 **3. Investigate complaints.** The commission shall investigate
15 complaints and cases of noncompliance with, or violation of, this
16 chapter or of the well driller and pump installer code of
17 performance adopted by the commission. Complainants must
18 petition the commission in writing within 24 months of completion
19 of a well or the installation, repair or replacement of a pump
20 system. At its discretion, the commission may request that an
21 investigation of an alleged violation be conducted by a neutral
22 qualified individual, acceptable to both the alleged violator and
23 the commission, who shall report to the commission. At its
24 discretion, the commission may refer a complaint to the Attorney
25 General.

26
27 **Sec. B-8. 32 MRSA §4700-H, sub-§4**, as amended by PL 1993, c.
28 25, §9 and affected by §15, is further amended to read:

29
30 **4. Revocation and suspension of license.** If the commission
31 determines a violation of this chapter, the well driller and pump
32 installer code of performance or other laws and rules in effect,
33 including the water well information laws, Title 12, section
34 550-B, has occurred, the commission shall notify the responsible
35 water well driller and, well drilling company, pump installer or
36 pump installation company by certified or registered mail of the
37 violation ~~and order them to correct the violation~~ . The
38 commission may order the responsible party or parties to correct,
39 within 48 hours of notification, any violation it determines to
40 be a significant threat to public health, including but not
41 limited to, potential contamination by pathogenic organisms. The
42 commission may order that all other violations be corrected
43 within a period of 60 days following receipt of notification. If
44 the violation is not corrected within 60 days, or within 48 hours
45 for significant threats to public health, the commission may
46 revoke or suspend the registration license of the responsible
47 party or parties. A ~~registrant~~ licensee who receives a written
48 notice of a violation or of a revocation or suspension of
registration a license under this subsection may request a

2 hearing before the commission. The commission shall conduct such
3 hearings and issue its decision within 30 days of the request. A
4 decision of the commission under this subsection is a final
5 agency action. The commission shall adopt rules governing
6 criteria for license reinstatement. Rules adopted by the
7 commission pursuant to this subsection are routine technical
8 rules as defined in Title 5, chapter 375, subchapter II-A.

10 **Sec. B-9. 32 MRSA §4700-H, sub-§§6 and 7** are enacted to read:

12 6. Levy fines. The commission may levy fines for
13 violations of the well driller and pump installer code of
14 performance of not more than \$1,000 per violation.

16 7. Order well abandonment. The commission shall adopt
17 rules establishing procedures for determining that a well must be
18 abandoned because of prior contamination or because it has been
19 constructed in violation of existing regulations and standards,
20 can not be altered or repaired to meet existing regulations or
21 standards and poses a significant threat to public health or
22 groundwater contamination. Rules adopted by the commission
23 pursuant to this subsection are routine technical rules as
24 defined in Title 5, chapter 375, subchapter II-A.

26 **Sec. B-10. 32 MRSA §4700-I,** as amended by PL 1993, c. 25,
27 §§10 and 11 and affected by §15, is further amended to read:

28 **§4700-I. Licensure and fees**

30 Effective January 1, 1994, a person may not participate in
31 the physical construction of a well for compensation or any
32 public drinking water well unless ~~registered~~ licensed under this
33 section.

34 1. Fees. The commission shall establish ~~registration~~
35 license fees sufficient to recover reasonable costs of
36 administering this chapter, including costs associated with the
37 development and administration of examinations. A ~~registration~~
38 fee ~~is~~ License fees are not required for apprentice well driller
39 ~~registration or apprentice pump installer licenses.~~

41 2. Licensure. An applicant for ~~registration~~ licensure shall
42 submit to the commission, on a form provided by the commission, a
43 written application for ~~registration~~ licensure containing such
44 information as the commission requires. A person who holds a
45 valid license as provided for in this section must be in the
46 charge of a licensed well drilling company or pump installation
47 company in order to actively practice well drilling or pump
48 installation, repair or replacement. A company license is valid

2 only while the company employs at least one licensed master well
3 driller for a well drilling company or one master pump installer
4 for a pump installation company. The commission shall register
5 license an applicant for well driller registration licensure as
6 either a master well driller or a journeyman well driller and
7 applicants for pump installer licensure as either a master pump
8 installer or a journeyman pump installer, based on the following
9 criteria.

10 A. A master well driller must have a minimum of 3 years
11 experience in well drilling and have worked an average of
12 1,000 hours per year as a journeyman well driller for each
13 of those years.

14 B. A journeyman well driller must have at least one year
15 experience in well drilling and have worked at least 1,000
16 hours during that year as an apprentice well driller.

17 C. A master pump installer must have a minimum of 3 years
18 experience as a pump installer and have worked at least 350
19 hours as a pump installer during each of those years.

20 E. A journeyman pump installer must have at least one year
21 experience in pump installing and have worked at least 350
22 hours during that year as an apprentice pump installer.

23 F. A well drilling company must be issued a license upon
24 presentation to the commission of a valid master well
25 driller license issued to and held by the owner or an
26 employee of the firm, partnership or corporation.

27 G. A pump installation company must be issued a license
28 upon presentation to the commission of a valid master pump
29 installer license issued to and held by the owner or an
30 employee of the firm, partnership or corporation.

31 The commission shall register licensure a well driller or pump
32 installer applicant who is not eligible for registration
33 licensure under paragraphs A to G E as an apprentice.

34 **3. Term of license.** Well drillers and pump installers
35 shall--register must be licensed annually. All registrations
36 licenses expire on December 31st of each year. Any person who is
37 a well driller or pump installer on the effective date of this
38 Act is deemed to be registered licensed.

39 **4. Examinations.** After January 1, 1994, a person must
40 successfully complete a written examination administered by the
41 commission in order to:

2 A. Initially ~~register~~ be licensed as a journeyman or master
pump installer or as a journeyman or master well driller;

4 B. Upgrade from an apprentice to a journeyman well driller
or an apprentice to a journeyman pump installer; and

6 C. Upgrade from a journeyman to a master well driller or a
8 journeyman to a master pump installer.

10 A person licensed under chapter 49 as a master plumber is not
12 required to complete an examination to perform the work of a pump
installer.

14 **Sec. B-11. 32 MRSA §4700-J**, as repealed and replaced by PL
16 1993, c. 25, §12, is amended to read:

18 **§4700-J. Licensure; well drillers and pump installers**

20 Effective January 1, 1994, a person may not engage in the
22 business of constructing water wells within the State or engage
in the ~~initial~~ installation, replacement or repair of a pump in a
24 water well unless ~~registered~~ licensed with the commission. An
applicant for ~~registration~~ licensure must complete a ~~registration~~
26 an application form supplied by the commission, successfully
complete any examination required by this chapter and pay an
28 annual ~~registration~~ license fee established by the commission.
The person so ~~registered~~ licensed shall display on each side of
30 the drilling rig or the pump installer vehicle a seal issued by
the commission indicating that person's ~~registration~~ license
32 number and the current year of ~~registration~~ licensure. A person
licensed under chapter 49 as a master plumber is not required to
34 ~~register~~ be licensed with the commission to perform the work of a
pump installer.

36 **Sec. B-12. 32 MRSA §4700-L**, as enacted by PL 1991, c. 455,
Pt. B, §1, is repealed and the following enacted in its place:

38 **§4700-L. Penalties**

40 1. Fine. Any person, company, firm, partnership or
42 corporation who installs, alters, repairs or replaces a water
well or pump system without being licensed as provided in this
44 chapter or in violation of the code of performance adopted by the
Maine Water Well Commission pursuant to section 4700-A,
46 subsection 5, except for an apprentice well driller or an
apprentice pump installer as set forth in this chapter, or any
48 person, firm, partnership or corporation who procures a license
as provided in this chapter wrongfully or by fraud commits a
50 civil violation punishable by a fine of not more than \$1,000.

2 2. Injunction. The State may bring action in Superior
3 Court to enjoin any person, firm, partnership or corporation from
4 violating this chapter, regardless of whether proceedings have
5 been or may be instituted in the District Court or whether civil
6 proceedings have been or may be instituted.

7 3. Exclusion. This chapter does not prevent a person from
8 making water well or pump system installations, alterations,
9 repairs or replacements in a single-family residence occupied by
10 that person or to be occupied by that person as a bona fide
11 personal abode, providing the installation, alternation, repair
12 or replacement conforms to the standards set forth in this
13 chapter and any rules adopted by the commission or the department.

14 **Sec. B-13. 32 MRSA §4700-M,** as enacted by PL 1993, c. 25,
15 §13, is amended to read:

16 **§4700-M. Reciprocity**

17 The commission may issue a registration license without
18 examination, in a comparable classification, to any person who
19 holds a registration or license in any state, territory or
20 possession of the United States or any country, if the commission
21 determines that the requirements for registration or licensure of
22 well drillers or pump installers under which the person's
23 registration or license was issued do not conflict with this
24 chapter or the code of performance adopted by the commission
25 under this chapter.

26 **Emergency clause.** In view of the emergency cited in the
27 preamble, this Act takes effect when approved.

28 **SUMMARY**

29 This bill amends the laws governing water wells in the
30 following ways.

31 1. It changes the name of the Maine Water Well Drilling
32 Program to the Maine Water Well Program and the name of the Maine
33 Water Well Drilling Commission to the Maine Water Well Commission.

34 2. It provides that the repair or replacement of a pump in
35 a well is under the jurisdiction of the Maine Water Well
36 Commission.

37 3. It establishes the categories of apprentice pump
38 installer, journeyman pump installer and master pump installer.

2 4. It gives the Maine Water Well Commission the duty to
license well drilling companies and pump installation companies.

4 5. It changes the penalties that may be imposed for a
violation of the laws governing water wells.