

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1011

H.P. 732

House of Representatives, February 25, 2003

### **An Act To Establish Minimum Environmental Compliance Standards for Subsidized Employers**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative THOMPSON of China.  
Cosponsored by Senator EDMONDS of Cumberland and  
Representatives: BULL of Freeport, COWGER of Hallowell, EDER of Portland, HUTTON of  
Bowdoinham, TWOMEY of Biddeford.

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

4 **Sec. 1. 5 MRSA §13070-P** is enacted to read:

6 **§13070-P. Compliance with Environmental Standards for Subsidized Employers**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

10 A. "Major violation" means a violation of environmental laws under Title 38 that:

12 (1) Results in significant environmental harm or risk to human health;

14 (2) Presents an imminent and substantial endangerment of human health and safety or the environment; or

16 (3) Is knowingly, intentionally or recklessly committed so as to constitute criminal conduct.

18 B. "Taxpayer incentive payment" means any grant payment or tax credit, reimbursement or forgiveness made pursuant to:

20 (1) The business equipment tax reimbursement under Title 36, chapter 915;

22 (2) The Maine Employment Tax Increment Financing Act;

24 (3) The jobs and investment tax credit under Title 36, section 5215;

26 (4) The research expense tax credit under Title 36, section 5219-K; or

28 (5) The shipbuilding facility credit under Title 36, chapter 919.

30 **2. Restrictions on public assistance payments.** An employer that has not corrected a major violation of Title 38 within 120 days from the date of the Department of Environmental Protection's issuance of a notice of major violation is ineligible to receive taxpayer incentive payments until the Department of Environmental Protection certifies that the major violation has been corrected and that the employer is in compliance with the terms of any related consent agreement, consent order or court order.

2 3. Three major violations. An employer that has committed  
3 or more major violations within 3 years is ineligible to  
4 receive taxpayer incentive payments for one year from the date of  
the most recent major violation.

6 4. Notice. The Department of Environmental Protection  
shall notify the Department of Administrative and Financial  
8 Service, Bureau of Revenue Services, the Department of Economic  
and Community Development and the appropriate municipal  
10 government when an employer is subject to a suspension of tax  
payer incentive payments under subsections 2 and 3 for any  
12 employer that has committed a major violation under Title 38.

14 5. Economic benefit of taxpayer incentives. When  
calculating the amount of a fine for any employer that has  
16 committed a major violation under Title 38, the Department of  
Environmental Protection shall take into consideration the extent  
18 to which taxpayer incentive payments constitute an economic  
benefit that may be used to offset the fine and shall adjust the  
20 fine accordingly.

22 6. Intervention. A citizen has the right to intervene  
pursuant to chapter 375 in an appeal of a suspension of taxpayer  
24 incentive payments under subsection 2.

26 7. Environmental compliance fund established. An  
environmental compliance fund is established for the purpose of  
28 administering this section. The Department of Administrative and  
Financial Services, Bureau of Revenue Services shall divert to  
30 the fund 0.1% of the reimbursement for taxes paid on certain  
business property pursuant to Title 36, chapter 915. Any  
32 increase in fines collected by the Department of Environmental  
Protection attributable to subsection 5 must also be deposited  
34 into the fund.

36 8. Rulemaking. The Department of Environmental Protection  
shall adopt rules to ensure effective administration of this  
38 section. Rules adopted pursuant to this subsection are routine  
technical rules as defined in Title 5, chapter 375, subchapter  
40 2-A.

## 42 SUMMARY

44 This bill provides that an employer that has not corrected a  
46 violation of environmental laws is ineligible to receive benefits  
under a taxpayer incentive program such as the business equipment  
48 tax reimbursement program, the Maine Employment Tax Increment  
Financing Act and the shipbuilding facility credit.