

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1493

H.P. 1090

House of Representatives, March 31, 2003

An Act To Expedite the Removal of Overboard Discharge

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DAIGLE of Arundel.
Cosponsored by Representatives: BULL of Freeport, DUNLAP of Old Town, Senator:
SAWYER of Penobscot.

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

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Sec. 1. 38 MRSA §353-B, sub-§2, ¶A, as amended by PL 2001, c. 230, §1, is further amended to read:

A. The base and maximum fees that may be assessed to categories of discharge activities are as follows.

Discharge Group	Base fee not to exceed	Maximum fee for individual in group
Publicly owned treatment facilities, greater than 6,000 gallons per day but less than 5 million gallons per day and no significant industrial waste	annual fee \$175	none
Publicly owned treatment facilities, 6,000 gallons per day or less	annual fee \$60	\$180
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee \$770	none
Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee \$1,850	none
Other industrial facility, process wastewater	annual fee \$630	none
Food handling or packaging wastewater	annual fee \$315	\$2,100
Fish rearing facility	annual fee \$230	\$1,400

2	Noncontact cooling annual fee	\$90	\$7,000
	water		
4	Industrial or annual fee	\$115	\$2,100
6	commercial sources,		
8	miscellaneous or		
10	incidental non-		
	process wastewater		
12	Municipal combined annual fee	\$115	\$1,400
	sewer overflow		
14	Sanitary annual fee	\$60	\$1,200
16	wastewater,		
18	excluding		
	overboard discharge		
20	Sanitary annual fee	\$85 <u>\$210</u>	\$1,200
22	overboard discharge,		
	commercial sources		
24	Sanitary annual fee	\$50 <u>\$175</u>	---
26	overboard discharge,		
	residential sources		
28	600 gallons per day		
	and less		
30	Sanitary annual fee	\$60 <u>\$200</u>	\$600
32	overboard discharge,		
	residential sources		
34	more than 600 gallons		
	per day		
36	Sanitary annual fee	\$75 <u>\$210</u>	\$500
38	overboard discharge,		
	public sources		
40	Aquatic pesticide annual fee*	\$200	---
	application		
42	Snow dumps annual fee*	\$125	---
44	Salt and sand annual fee*	\$150	---
46	storage pile		
48	Log storage permit annual fee*	\$200	---
50	General permit annual fee*	\$100	---
	coverage		

2	Experimental	license fee*	\$500	---
	discharge license			
4	Mixing zone, in	flat fee*	\$4,000	---
6	addition to other			
	applicable fees			
8	Formation of	flat fee*	\$300	---
10	sanitary district			
12	Transfer of license	flat fee*	\$100	---
14	for residential or			
	commercial sanitary			
	wastewater			

16 *Discharge or license quantity fees do not apply to these
18 categories.

20 When a license authorizes multiple discharge points in
22 different categories in the same license, the total maximum
24 fee for the license may not exceed the maximum fee for the
 most significant category plus 1/2 of the maximum fee for
 each of the other applicable categories.

26 **Sec. 2. 38 MRSA §361-A, sub-§3-C** is enacted to read:

28 3-C. Overboard discharge. "Overboard discharge" has the
30 same meaning as in section 466, subsection 9-A.

32 **Sec. 3. 38 MRSA §411-A, sub-§2**, as amended by PL 2001, c. 232,
§10, is repealed.

34 **Sec. 4. 38 MRSA §411-A, sub-§2-A** is enacted to read:

36 2-A. Cost-share. The commissioner shall determine the
38 portion of project expenses eligible for grants under this
section as follows:

40 A. For an owner of overboard discharge with an annual
42 income less than \$25,000, 100%;

44 B. For an owner of overboard discharge with an annual
46 income between \$25,000 and \$50,000, 90%;

48 C. For an owner of overboard discharge with an annual
50 income between \$50,001 and \$75,000, 50%;

D. For an owner of overboard discharge with an annual
 income between \$75,001 and \$100,000, 35%;

2 E. For an owner of overboard discharge with an annual
3 income over \$100,000, 25%; and

4 F. For a publicly owned overboard discharge facility, 50%
5 to a maximum of \$150,000.

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8 For purposes of this subsection, "annual income" means the sum of
9 all the property owner's federal taxable income for the previous
10 year for single family dwellings, gross profits for the previous
11 year for commercial establishments and gross rents for the
12 previous year for rental properties, as listed on the relevant
13 federal income tax returns.

14
15 **Sec. 5. 38 MRSA §411-A, sub-§4**, as amended by PL 1991, c. 499,
16 §14, is repealed and the following enacted in its place:

17 **4. Reimbursement.** The commissioner shall utilize grants
18 under this section to reimburse individuals for the cost of
19 removing any overboard discharge, subject to the provisions of
20 subsection 2-A, when:

21
22 A. The removal occurred after September 30, 1989 but was
23 carried out according to plans and specifications approved
24 by the commissioner in advance of construction and prior to
25 the offering of a grant under this section;

26
27 B. The removal resulted in the elimination of sources of
28 contamination to shellfish areas or public nuisance
29 conditions; and

30
31 C. The removal is required under section 413, subsection 3
32 or section 414-A, subsection 1-B.

33
34 **Sec. 6. 38 MRSA §413, sub-§3**, as amended by PL 1989, c. 890,
35 Pt. B, §28 and affected by Pt. A, §40, is further amended to read:

36
37 **3. Transfer of ownership.** In the event that any person
38 possessing a license issued by the department transfers the
39 ownership of the property, facility or structure that is the
40 source of a licensed discharge, without transfer of the license
41 being approved by the department, the license granted by the
42 department continues to authorize a discharge within the limits
43 and subject to the terms and conditions stated in the license,
44 provided that the parties to the transfer are jointly and
45 severally liable for any violation thereof until such time as the
46 department approves transfer or issuance of a waste discharge
47 license to the new owner. The department may in its discretion
48 require the new owner to apply for a new license, or may approve

2 transfer of the existing license upon a satisfactory showing that
the new owner can abide by its terms and conditions.

4 Prior to transfer of ownership of property containing an
6 overboard discharge, the parties to the transfer shall determine
8 the feasibility of technologically proven alternatives to the
10 overboard discharge that are consistent with the plumbing
12 standards adopted by the Department of Human Services pursuant to
14 Title 22, section 42 based on documentation from a licensed site
16 evaluator provided by the applicant and approved by the
18 Department of Environmental Protection. The licensed site
20 evaluator shall demonstrate experience in designing replacement
22 systems for overboard discharge. If an alternative to the
24 overboard discharge is identified, the alternative system must be
26 installed within 90 days of property transfer, except that, if
28 soil conditions are poor due to seasonal weather, the alternative
30 may be installed as soon as soil conditions permit. The
32 installation of an alternative to the overboard discharge may be
34 eligible for funding under section 411-A.

20 **Sec. 7. 38 MRSA §414, sub-§2**, as amended by PL 1997, c. 794,
22 Pt. A, §19, is further amended to read:

24 **2. Terms of licenses.** Licenses are issued by the
26 department for a term of not more than 5 years, ~~except that~~
28 ~~licenses for overboard discharges may be issued for a term of not~~
30 ~~more than 10 years, as provided for in section 414-A, subsection~~
1-B, ~~paragraph-D. For the purposes of this section, "overboard~~
discharge" ~~is defined in accordance with section 466, subsection~~
9-A.

32 **Sec. 8. 38 MRSA §414, sub-§3-A**, as repealed and replaced by PL
34 1991, c. 294, §1, is repealed and the following enacted in its
place:

36 **3-A. Inspection of overboard discharge systems.** The
38 department shall inspect all licensed overboard discharge
40 systems. The cost of the inspections must be assessed as part of
42 the annual license fee. For residential overboard discharges
44 owned by individuals, the department shall provide a fee
46 reduction based on the adjusted gross income of the license
holder on the most recent tax return under the federal Internal
Revenue Code of 1986. If the license holder's adjusted gross
income is less than \$15,000, the license holder may reduce the
total fee by \$125. Any overboard discharge license owner with a
mechanical treatment system must provide annual proof of a
private maintenance contract for maintenance of that system.

48 **Sec. 9. 38 MRSA §414, sub-§3-B**, as enacted by PL 1991, c. 294,
50 §2, is repealed.

2 **Sec. 10. 38 MRSA §414-A, sub-§1-B, ¶A**, as enacted by PL 1989,
c. 442, §3 and affected by c. 890, Pt. A, §40 and amended by Pt.
4 B, §30, is further amended to read:

6 A. The department shall find that the discharge meets the
7 requirements of best practicable treatment under this
8 section for purposes of relicensing, when it finds that
9 there are no technologically proven alternative methods of
10 wastewater disposal consistent with the plumbing code
11 adopted by the Department of Human Services pursuant to
12 Title 22, section 42, that will not result in an overboard
13 discharge, based on documentation from a licensed site
14 evaluator provided by the applicant and approved by the
15 department. The licensed site evaluator shall demonstrate
16 experience in designing replacement systems for overboard
17 discharges. If a technologically proven alternative is
18 identified, the alternative must be installed within 180
19 days of the application's being accepted by the department,
20 subject to availability of funding under section 411-A. If
21 the applicant is not eligible for funding under section
22 411-A, the alternative system must be installed within 180
23 days. If the applicant is eligible for funding but no
24 funding is available, the installation of an alternative
25 system may be postponed until funding is available.

26 **Sec. 11. 38 MRSA §414-A, sub-§1-B, ¶C**, as enacted by PL 1989,
27 c. 442, §3 and affected by c. 890, Pt. A, §40 and amended by Pt.
28 B, §30, is repealed.

29 **Sec. 12. 38 MRSA §464, sub-§4, ¶A**, as amended PL 1997, c. 794,
30 Pt. A, §30, is further amended by amending subparagraph (6) to
31 read:

32 (6) New discharges of domestic pollutants to the
33 surface waters of the State that are not conveyed and
34 treated in municipal or quasi-municipal sewage
35 facilities. For the purposes of this subparagraph,
36 "new discharge" means any overboard discharge that was
37 not licensed as of June 1, 1987, except those
38 discharges that were in continuous existence for the 12
39 months preceding June 1, 1987, as demonstrated by the
40 applicant to the department with clear and convincing
41 evidence. The volume of the discharge from an
42 overboard discharge facility that was licensed as of
43 June 1, 1987 is determined by the actual or estimated
44 volume from the facilities connected to the overboard
45 discharge facility during the 12 months preceding June
46 1, 1987 or the volume allowed by the previous license,
47 whichever is less, unless it is found by the department
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2 clarifies the requirement for maintenance contracts for certain
types of overboard discharges previously stipulated in the Maine
4 Revised Statutes, Title 38, section 414, subsection 3-B. The bill
eliminates language prescribing the number of inspections to be
6 conducted by the department.

8 The bill eliminates the waiver of department inspection and
additional requirements and penalties for homeowners that choose
10 to hire a private service contractor to maintain their overboard
discharge. The bill also eliminates the fee reduction for owners
12 who hire a service contractor.

14 The bill requires that, at the time of relicensing, all
overboard discharge owners evaluate whether they have an
16 alternative to the overboard discharge and install the
alternative when possible. The bill provides that grant money to
18 all owners required to remove overboard discharge must be based
on their ability to pay and that, if no grant money is available,
20 the installation may be postponed until grant money is available.

22 The bill eliminates the conditional permit provision in
current law.

24 The bill clarifies the determination of flow volume and
seasonal use and provides greater flexibility for the homeowner
26 to prove year-round use.