

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1775

H.P. 1242

House of Representatives, March 28, 2007

### An Act To Ensure Safe Drinking Water from Private Wells

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Health and Human Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MOORE of Standish.  
Cosponsored by Senator McCORMICK of Kennebec and  
Senator: RAYE of Washington.

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

2 **Sec. 1. 22 MRSA c. 601, sub-c. 8 is enacted to read:**

3 **SUBCHAPTER 8**

4 **PRIVATE WELL TESTING ACT**

5 **§2660-M. Short title**

6 This subchapter may be known and cited as "the Private Well Testing Act."

7 **§2660-N. Water testing of private wells**

8 1. **Water testing; provision of contract of sale.** A contract of sale of real property  
9 for which the potable water supply is a private well located on the property or for which  
10 the potable water supply is a well that has fewer than 15 service connections or that does  
11 not regularly serve an average of at least 25 individuals daily at least 60 days out of the  
12 year must include a provision requiring, as a condition of the sale, the testing of the water  
13 supply for at least the elements described in subsections 3 and 4.

14 2. **Review water test results.** The sale of real property under subsection 1 may not  
15 occur unless both the buyer and the seller have received and reviewed a copy of the water  
16 test results. At closing, both the buyer and seller shall certify in writing that they have  
17 received and reviewed the water test results.

18 3. **Water test elements.** A water test conducted in accordance with this subchapter  
19 must include a test for arsenic and uranium.

20 4. **Additional elements.** The department may adopt rules that list additional  
21 elements that the department determines significant and that must be included as part of a  
22 water test conducted in accordance with this subchapter.

23 5. **Exclusion.** The department, in consultation with the State Geologist, may adopt  
24 rules to exclude or limit by geographic area or geologic formation or based upon well  
25 record information any element listed in subsection 3 that the department determines is  
26 not significant in a specific area and does not have to be tested for as part of a water test  
27 to be conducted in accordance with this subchapter.

28 6. **Time period.** For each element to be tested in accordance with this subchapter,  
29 the department shall adopt rules that establish a maximum time period for which a test  
30 result remains valid for the purposes of subsection 2 without necessitating retesting for  
31 that element. A retest of the water supply is not required pursuant to subsection 1 if the  
32 contract of sale is entered into within the period of test validity established pursuant to  
33 this subsection. Notwithstanding any provision of this subsection, a buyer and seller  
34 subject to the provisions of subsection 1 may mutually agree to retest for an element even  
35 though the maximum time period for test validity for that element has not expired.

1 7. Rules. Rules adopted pursuant to this section are routine technical rules as  
2 defined in Title 5, chapter 375, subchapter 2-A.

3 **§2660-O. Water testing by laboratory**

4 **1. Approved laboratory.** A water test conducted in accordance with this subchapter  
5 must be conducted by a laboratory approved by the department pursuant to section 2607.

6 **2. Report.** A water test result provided by a laboratory to the person requesting the  
7 test must include the maximum contaminant levels allowable or other established water  
8 quality standards prescribed by the department for each element tested. The results must  
9 be transmitted on a standardized private well water test reporting form provided by the  
10 department. The form must provide information regarding remediation alternatives  
11 available and must refer the buyer and seller of the real property to appropriate resources  
12 for further information regarding any alternatives. The department may establish rules to  
13 set quality standards. Rules adopted pursuant to this subsection are routine technical  
14 rules as defined in Title 5, chapter 375, subchapter 2-A.

15 **3. Information required.** The laboratory, within 5 days after completion of a water  
16 test under this subchapter, shall submit the water test results to the department together  
17 with the following information:

18 **A.** A statement that the testing is for the purpose of complying with the Private Well  
19 Testing Act;

20 **B.** The location of the real property, described by block and lot number, street  
21 address, municipality and county;

22 **C.** The name and mailing address of the person making the request for the test;

23 **D.** The name of the employee or authorized representative of the laboratory who  
24 collected the well sample;

25 **E.** The date and time that the water sample was collected and the specific point of  
26 collection;

27 **F.** The date and time the sample was analyzed by the laboratory; and

28 **G.** Any other information the department may require.

29 **4. Submission.** The department may require a laboratory to submit electronically  
30 the information required pursuant to subsection 3.

31 **5. Release of results.** A laboratory may not release water test results under this  
32 subchapter to a person except the buyer and seller of the real property pursuant to section  
33 2660-N, the lessor of the real property pursuant to section 2660-Q, a person authorized by  
34 the buyer, seller or lessor, the department or a person designated by court order.

35 **6. Data.** The department shall compile the data accumulated from the water test  
36 results submitted by laboratories pursuant to this section in a manner that is useful to the  
37 department, counties, municipalities or other governmental entities for the purposes of  
38 studying groundwater supplies or contamination in the State.

1     **§2660-P. Actions on water testing results**

2           **1. Notification.** The department, within 5 business days after receiving a report of a  
3 water test failure in accordance with this subchapter, shall provide notice of the test  
4 failure to the municipality, health agency, designated local health officer or other  
5 governmental entity, as appropriate to each region in which the private well that failed the  
6 water test is located. The municipality, health agency, designated health officer or other  
7 governmental entity may issue a general notice to owners of real property served by  
8 private wells located in the vicinity of the real property experiencing the water test failure  
9 suggesting or recommending that those property owners have their private wells tested  
10 for at least the elements at issue. The specific address or location of the private well that  
11 failed a water test may not be identified in the notice or by any other means or in any  
12 other manner. The department shall establish criteria for notification that may include,  
13 but are not limited to, test levels at which notification is recommended and the area in the  
14 vicinity of the contaminated well for which testing is recommended. It is at the sole  
15 discretion of the municipality, health agency, designated local health officer or other  
16 governmental entity whether or not to issue a notice and to whom and by what means the  
17 notice must be given.

18           **2. Confidentiality.** Water test results received by the department, a municipality,  
19 health agency, designated health officer or any other governmental entity in compliance  
20 with or as authorized by this subchapter are confidential and may not be open for public  
21 examination, inspection or copying. General compilations of water test results data  
22 arranged or identified by county and municipality or appropriate geographic areas that do  
23 not include specific address or location information may be made available to the public.

24     **§2660-Q. Lessor's water testing responsibilities**

25           By March 1, 2009 and at least once every 5 years thereafter, a lessor of real property  
26 for which the potable water supply is a private well that water testing is not required for  
27 pursuant to any other state law shall test the water supply in the manner established by  
28 this subchapter for at least the elements required pursuant to section 2660-N. Within 30  
29 days after receipt of the test results, the lessor shall provide a written copy of the test  
30 results to each rental unit on the property. The lessor shall also provide a written copy of  
31 the most recent test results to a new lessee of a rental unit on the property.

32     **§2660-R. Authority not preempted**

33           Nothing in this subchapter may be construed to limit or preempt the existing authority  
34 of any governmental entity to make or cause to be made an inspection and testing of a  
35 water supply that may be necessary to ensure the health and safety of the residents of the  
36 State.

37           **Sec. 2. Public information and education program.** The Department of  
38 Health and Human Services, in consultation with health agencies, designated health  
39 officers and other appropriate governmental entities, shall establish a public information  
40 and education program to inform the public and appropriate professional disciplines of  
41 the enactment of the Maine Revised Statutes, Title 22, chapter 601, subchapter 8 and the  
42 substance of its provisions and requirements. The program must include:

