

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 493

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H.P. 356

House of Representatives, February 9, 2017

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### **An Act To Tax the Extraction of Water for Certain Commercial Purposes and Fund Water Quality Programs**

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative MELARAGNO of Auburn.  
Cosponsored by Representatives: ACKLEY of Monmouth, COOPER of Yarmouth,  
HILLIARD of Belgrade, HOGAN of Old Orchard Beach, KORNFIELD of Bangor, PIERCE  
of Falmouth, TUCKER of Brunswick, VACHON of Scarborough.

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

2 **Sec. 1. 36 MRSA c. 370-A** is enacted to read:

3 **CHAPTER 370-A**

4 **EXTRACTION OF WATER FOR BOTTLING**

5 **§2831. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms  
7 have the following meanings.

8 **1. Bottled water operator.** "Bottled water operator" means a person engaged in the  
9 business of bottling or packaging water for sale.

10 **§2832. Excise tax**

11 **1. Imposition of tax.** Beginning with the extraction of water occurring on or after  
12 October 1, 2017, an excise tax is imposed on each bottled water operator that extracted  
13 more than 1,000,000 gallons of water in the previous calendar year for the privilege of  
14 engaging in the business of extracting groundwater or surface water from springs or other  
15 underground sources within the State for commercial bottling for sale.

16 **2. Rate of tax.** The excise tax under this section is imposed at a rate of 1¢ per 25  
17 gallons of water extracted in the State.

18 **3. Payment.** A bottled water operator shall prepare and submit to the bureau a  
19 monthly report according to procedures and schedules specified by the bureau showing  
20 the total gallons of water extracted for bottling during the preceding month and other  
21 information required by the bureau and shall pay excise tax under this section each month  
22 to the bureau at the time the report is submitted.

23 **4. Records.** A bottled water operator shall keep a record of all water extracted in  
24 this State by that bottled water operator.

25 **§2833. Application of revenues**

26 All revenues received by the bureau under this chapter after reduction for  
27 administrative costs must be credited to a General Fund suspense account. No later than  
28 the last day of each month, the State Controller shall transfer all such revenues to the  
29 Maine Water Quality Testing and Monitoring Fund established in Title 38, section 424-E.

30 **Sec. 2. 38 MRSA §424-C** is enacted to read:

31 **§424-C. Maine Well Water Testing Grant Program**

32 **1. Establishment.** The Maine Well Water Testing Grant Program, referred to in this  
33 section as "the program," is established to provide grants to public and private entities in

1 the State to facilitate the testing for heavy metals, bacteria and other contaminants of  
2 drinking water from a well or other private water supply used by an entity.

3 **2. Administration.** The department may administer the program and shall disburse  
4 revenue from the Maine Water Quality Testing and Monitoring Fund established under  
5 section 424-E for the purposes of the program based on approved grant requests from  
6 public and private applicants in accordance with subsection 4. Costs incurred by the  
7 department in the development and administration of the program are paid with revenue  
8 in the Maine Water Quality Testing and Monitoring Fund in a manner consistent with  
9 section 424-E.

10 **3. Audit.** Revenue from the Maine Water Quality Testing and Monitoring Fund  
11 established under section 424-E disbursed by the program is subject to audit as  
12 determined by the department, and the recipient of any such funding must agree to be  
13 subject to audit and to cooperate with the auditor as a condition of receiving funding.

14 **4. Eligibility criteria; priorities.** The department may disburse grants under the  
15 program to any public or private entity demonstrating that the well or other private water  
16 supply used by the entity as the primary source for drinking water has not been tested for  
17 heavy metals, bacteria or other contaminants within the 3 years prior to the filing of the  
18 grant application. The department shall request financial information from each applicant  
19 and shall prioritize the awarding of grants under the program to low-income applicants  
20 and to applicants demonstrating to the department's satisfaction, based on information  
21 submitted with the application, that the drinking water used by the applicant is likely to  
22 be contaminated.

23 **5. Rules.** The department may adopt rules to implement this section. Rules adopted  
24 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
25 subchapter 2-A.

26 **Sec. 3. 38 MRSA §424-D** is enacted to read:

27 **§424-D. Lake water quality monitoring and support program**

28 **1. Program established.** The commissioner shall contract with a private  
29 organization, through a competitive bidding process, to establish and administer a  
30 program to monitor and support lake water quality in the State, as described in subsection  
31 2, as long as the commissioner determines that sufficient funds are available pursuant to  
32 subsection 3 to support the program and that a suitable private organization is available to  
33 establish and administer the program.

34 **2. Program activities.** The lake water quality monitoring and support program  
35 established pursuant to subsection 1 shall engage in the following activities to support  
36 lake water quality in the State:

37 A. The program shall provide for the distribution of educational or informational  
38 material on measures relating to the monitoring, maintenance and improvement of  
39 lake water quality in the State;

1           B. The program shall train, certify and provide technical support to individuals and  
2           entities that monitor lake water quality in the State, assess watershed health and  
3           function and screen lakes for invasive aquatic plants and animals; and

4           C. The program shall facilitate the gathering and compilation of data relating to lake  
5           water quality in the State and shall distribute or otherwise make that data available to  
6           interested individuals and entities, including state agencies.

7           **3. Program funding.** The lake water quality monitoring and support program  
8           established pursuant to subsection 1 is funded from the Maine Water Quality Testing and  
9           Monitoring Fund, established under section 424-E, and any other sums that are  
10          appropriated by the Legislature or transferred from time to time by the State Controller.

11          **Sec. 4. 38 MRSA §424-E** is enacted to read:

12          **§424-E. Maine Water Quality Testing and Monitoring Fund**

13           **1. Fund established.** The Maine Water Quality Testing and Monitoring Fund,  
14           referred to in this section as "the fund," is established as a dedicated, nonlapsing fund  
15           administered by the department for the purpose of providing funds, in accordance with  
16           subsection 3, to support activities under the Maine Well Water Testing Program  
17           established under section 424-C and the lake water quality monitoring and support  
18           program under section 424-D.

19           **2. Sources of funding.** The fund consists of any money received from the following  
20           sources:

21           A. Revenues transferred by the State Controller under Title 36, section 2833;

22           B. Contributions from private sources;

23           C. Federal funds and awards; and

24           D. Any other sums that are appropriated by the Legislature or transferred from time  
25           to time by the State Controller.

26           **3. Distributions.** Except as provided in subsection 4, the department shall apply the  
27           money in the fund in accordance with the following breakdown:

28           A. Eighty-five percent of the money distributed by the fund in any calendar year  
29           must support activities under the Maine Well Water Testing Program established  
30           under section 424-C; and

31           B. Fifteen percent of the money distributed by the fund in any calendar year must  
32           support activities under the lake water quality monitoring and support program under  
33           section 424-D.

34           **4. Administrative costs.** Costs incurred by the department in the development and  
35           administration of the fund or in the development and administration or oversight of the  
36           programs established under sections 424-C or 424-D may be paid with revenues in the  
37           fund, except that such costs may not exceed 10% of the total revenues credited to the  
38           fund in any calendar year.

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## SUMMARY

This bill creates an excise tax of 1¢ per 25 gallons of groundwater or surface water extracted from springs or other underground sources in this State by a bottled water operator that extracted more than 1,000,000 gallons in the previous calendar year if the water is packaged for sale. The revenues from the tax are transferred to a newly created Maine Water Quality Testing and Monitoring Fund to be administered by the Department of Environmental Protection. Of the money transferred, 85% will support well water testing and 15% will support lake water quality monitoring and support.