

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

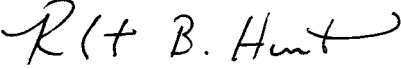
No. 1019

H.P. 655

House of Representatives, March 7, 2023

An Act Regarding Water Testing Related to Salt and Sand Storage Facilities

Reference to the Committee on Transportation suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative HASENFUS of Readfield.
Cosponsored by Senator HICKMAN of Kennebec.

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

2 **Sec. 1. 23 MRSA §652, sub-§2**, as amended by PL 1987, c. 769, Pt. A, §84 and PL
3 2003, c. 689, Pt. B, §6, is further amended to read:

4 **2. Private water supplies.** In the event an owner of land adjacent to a state or state
5 aid highway conceives that a private water supply on that land has been destroyed or
6 rendered unfit for human consumption by the department constructing, reconstructing or
7 maintaining the highway, ~~such~~ the owner may apply in writing to the department for a
8 determination of the alleged cause and assessment of the damage and, if ~~such~~ the claim is
9 founded on construction, the owner shall present ~~such~~ the application within 24 months
10 after completion date of the work as that date appears in the records of the department. For
11 purposes of this subsection, "state or state aid highway" includes any salt and sand storage
12 facility located along that state or state aid highway to supply salt and sand for use on that
13 highway.

14 The application ~~shall~~ must set forth the name and address of the owner, the owner's source
15 of title, the location of the property, a description of the damage, the cause to which the
16 damage is attributed and the name and address of any lien holder.

17 A. If the department determines that it did not cause the alleged damage to ~~such~~ the
18 water supply, a copy of the determination ~~shall~~ must be served by registered or certified
19 mail or by personal service as required for service of a summons on a complaint in the
20 Superior Court.

21 B. If the department determines that any damage to the privately owned water supply
22 was caused by the department constructing, reconstructing or maintaining the highway,
23 a copy of the determination ~~shall~~ must be served by registered or certified mail or by
24 personal service as required for service of a summons on a complaint in the Superior
25 Court and the department shall set forth an offer of settlement ~~which shall be either that~~ offers:
26

- 27 (1) To replace the water supply; ~~or~~
28 (2) To repair the damage to the water supply; ~~or~~
29 (3) To pay a designated sum of money; or
30 (4) To purchase the realty served by the water supply in the event the cost of repair
31 or replacement of the water supply exceeds the appraisal value of the realty.

32 C. The department may issue rules and regulations in accordance with standards of the
33 Department of Health and Human Services and the United States Department of Health
34 and Human Services, Public Health Service regarding water potability for the
35 determination of the degree of contamination, pollution or fitness for domestic use.

36 D. The department shall in its determination consider the necessity for installation or
37 replacement of piping, tanks, pumps, heating systems or other related fixtures. The
38 ~~Department of Transportation shall~~ department may not condition installation or
39 replacement on the owner giving possession or title of any privately owned piping,
40 tanks, pumps, heating systems or other related fixtures on ~~his~~ the land to any agency of
41 this State, unless agreed to by the property owner.

1 E. If the department is unable to settle at what it ~~deems~~ determines to be a reasonable
2 settlement, the department or owner may apply to the State Claims Commission in
3 writing for a determination of the alleged cause and assessment of the damage. The
4 proceedings ~~shall~~ are then be the same as in condemnation cases.

5 F. This subsection ~~shall~~ does not apply to private water supplies after June 26, 1969
6 where the location does not allow for or provide for adequate surface drainage.

7 G. This subsection ~~shall~~ does not apply to private water supplies now located or
8 hereafter located within the right-of-way limits.

9 H. This subsection ~~shall~~ does not apply to any private water supply damaged by
10 construction, reconstruction or maintenance ~~which~~ that the department determines to
11 have already been contaminated or polluted by another source to the degree ~~said~~ the
12 contamination or pollution would have rendered it unfit for human consumption.

13 I. The following provisions apply with respect to a private water supply located on
14 property adjacent to a salt and sand storage facility.

15 (1) The department shall arrange for and pay the cost of testing the private water
16 supply every 2 years for any contaminants that may derive from the salt and sand
17 storage facility.

18 (2) If an owner of land adjacent to a salt and sand storage facility shows in an
19 application under this subsection that the owner's water supply is contaminated by
20 any contaminants that may derive from the salt and sand storage facility, the
21 contamination is presumed to have been caused by that storage facility, and the
22 department shall offer a settlement in accordance with paragraph B unless the
23 department can demonstrate that the contamination was not caused by the salt and
24 sand storage facility. The department shall provide a demonstration that the
25 contamination was not caused by the salt and sand storage facility in any
26 determination served pursuant to paragraph A.

27 **SUMMARY**

28 This bill includes salt and sand storage facilities in the law governing the contamination
29 of private water supplies adjacent to state or state aid highways. It requires the Department
30 of Transportation to arrange for and pay the cost of testing the private water supplies every
31 2 years for any contaminants that may derive from the salt and sand storage facilities.

32 It also provides that if an owner of land adjacent to a salt and sand storage facility
33 shows the owner's water supply is contaminated by any contaminants that may derive from
34 the salt and sand storage facility, the contamination is presumed to have been caused by
35 that storage facility, and the department is required to offer a settlement to remedy the
36 situation unless the department can demonstrate that the contamination was not caused by
37 the salt and sand storage facility.