

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1845

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H.P. 1177

House of Representatives, April 27, 2023

### An Act to Regulate Outdoor Lighting

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

  
ROBERT B. HUNT  
Clerk

Presented by Representative OSHER of Orono.  
Cosponsored by Senator GROHOSKI of Hancock and  
Representatives: KESSLER of South Portland, LOOKNER of Portland, O'NEIL of Saco,  
RUNTE of York, WILLIAMS of Bar Harbor, Senator: BRENNER of Cumberland.

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

2 **Sec. 1. 5 MRSA §1769, sub-§2, ¶B**, as enacted by PL 1991, c. 481, §1, is amended  
3 to read:

4 B. The luminaire's maximum illuminance does not exceed the minimum illuminance  
5 recommended for that purpose by the Illuminating Engineering Society of America or  
6 the federal Department of Transportation; and

7 **Sec. 2. 5 MRSA §1769, sub-§2, ¶B-1** is enacted to read:

8 B-1. In the case of a permanent outdoor luminaire installed to illuminate a building  
9 owned or leased by the State or the grounds of such a building, the luminaire's  
10 illuminance is consistent with relevant lighting zone illuminance recommendations of  
11 the Illuminating Engineering Society; and

12 **Sec. 3. 38 MRSA c. 35** is enacted to read:

13 **CHAPTER 35**

14 **LIGHT POLLUTION**

15 **§3131. Outdoor lighting**

16 This section governs outdoor lighting fixtures. Nothing in this section limits the  
17 application of Title 5, section 1769 or Title 23, section 708 governing the use of state funds  
18 to install or replace outdoor lighting fixtures.

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

21 A. "Outdoor lighting fixture" means an outdoor artificial lighting device, whether  
22 temporary, portable or permanently installed, including but not limited to a searchlight,  
23 spotlight, floodlight or other device for lighting a landscape, advertisement, structure,  
24 parking lot or street that uses:

25 (1) One or more incandescent light bulbs that use in total more than 150 watts of  
26 electricity; or

27 (2) Any other lighting device that uses more than 70 watts of electricity.

28 B. "Mercury vapor lamp" has the same meaning as in 10 Code of Federal Regulations,  
29 Section 431.282 (2009).

30 C. "Place" means, with respect to a temporary or portable outdoor lighting fixture, to  
31 place and use outside.

32 D. "Replace" means, with respect to an outdoor lighting fixture, to replace an outdoor  
33 lighting fixture that is nonfunctional with a new outdoor lighting fixture.

34 E. "Shielded" means, with respect to an outdoor lighting fixture, that a shield or other  
35 device has been placed on the fixture that ensures that light emitted from the fixture is  
36 projected below a horizontal plane running through a point immediately above the  
37 emitting light, as specified by the department by rule.

1           **2. Prohibition.** Beginning January 1, 2024, except as provided in subsection 3, a  
2 person may not:

3           A. Place or install an outdoor lighting fixture unless the fixture is shielded or replace  
4 an outdoor lighting fixture unless the replacement is shielded;

5           B. Illuminate an outdoor lighting fixture between 11 p.m. and sunrise unless the fixture  
6 is shielded; or

7           C. Place or install an outdoor lighting fixture that uses a mercury vapor lamp or replace  
8 an outdoor lighting fixture with one that uses a mercury vapor lamp.

9           **3. Exemptions.** The following are exempt from the requirements of subsection 2:

10          A. An outdoor lighting fixture used to illuminate signs on the Maine Turnpike or an  
11 interstate highway as defined in Title 23, section 1903, subsection 3;

12          B. An outdoor lighting fixture used at an airport or otherwise necessary for aircraft  
13 safety, as determined by the department by rule; and

14          C. An outdoor lighting fixture used at a farm for the safety of agricultural labor as  
15 defined in Title 26, section 1043, subsection 1.

16           **4. Ratemaking; public utilities.** A public utility regulated by the Public Utilities  
17 Commission under Title 35-A that prudently incurs costs to comply with the requirements  
18 of subsection 2 or an ordinance described in subsection 5 is entitled to recover those costs  
19 in rates.

20           **5. Application; enforcement.** This subsection governs the application and  
21 enforcement of this section.

22          A. The provisions of subsection 2 do not apply in a municipality that has adopted an  
23 ordinance that includes the requirements of subsection 2 or requirements stricter than  
24 those in subsection 2. The ordinance must include the exemptions specified in  
25 subsection 3 and no other exemptions. A municipality that has adopted such an  
26 ordinance shall notify the department and provide to the department an electronic link  
27 to the ordinance. The department shall post on its publicly accessible website a link to  
28 each such ordinance. This paragraph places express limitations on municipal home  
29 rule authority.

30          B. The department shall enforce the requirements of this section in any area of the State  
31 not governed by an ordinance described in paragraph A.

32           **6. Violations.** Whenever it appears, after investigation, that there is or has been a  
33 violation of subsection 2, the commissioner may, after holding an enforcement hearing in  
34 accordance with section 347-A, subsection 2:

35          A. For a first violation, issue to the violator an order to take such action as is necessary  
36 for the violator to come into compliance, including but not limited to ceasing use of an  
37 outdoor lighting fixture in violation of subsection 2 or replacing an outdoor lighting  
38 fixture with one that complies with subsection 2; and

39          B. If the commissioner finds that an order issued under paragraph A has not been  
40 complied with after 30 days, or finds that the violator has committed another violation  
41 of this section, assess the violator an administrative penalty not to exceed \$25 for each  
42 outdoor lighting fixture that is the subject of the violation. The commissioner shall

1 reduce the penalty, but not below \$0, by any cost the commissioner finds the violator  
2 incurs to replace an outdoor lighting fixture with one that complies with this section.

3 **SUMMARY**

4 This bill regulates outdoor lighting fixtures. Beginning January 1, 2024, it imposes,  
5 with some exceptions, certain requirements related to the installation and use of outdoor  
6 lighting fixtures. It prohibits a person from placing or installing an outdoor lighting fixture  
7 unless the fixture is shielded to direct the light downward. It provides that if an outdoor  
8 lighting fixture is not shielded it may not be operated between 11 p.m. and sunrise. It  
9 prohibits the installation of outdoor lighting fixtures that use a mercury vapor lamp. These  
10 provisions apply in the absence of a municipal ordinance that provides the same or more  
11 restrictive requirements. Where there is no such ordinance, the Department of  
12 Environmental Protection has authority to enforce the requirements. It also requires  
13 outdoor luminaires for buildings owned or leased by the State to be consistent with certain  
14 standards established by the Illuminating Engineering Society.