

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

If a state, district or country requires a permit or charges residents of this State any fee for transportation exempted under this subsection, the bureau shall require a permit and charge fees as required by this chapter.

If any state, district, province or country prohibits, in any way, the transportation of wood, pulpwood or logs from that state, district, province or country to this State, or by law, regulation or rule requires a citizen of this State to establish citizenship, a residence or place of business or to register a business in that state, district, province or country in order to transport wood, pulpwood or logs from that state, district, province or country to this State, similar provisions shall apply to residents of that state, district, province or country who transport wood, pulpwood or logs from this State to that state, district, province or country. The limitations provided in this section shall not apply to the sale of sawlogs and pulpwood, but shall apply to the transportation and methods of transportation of sawlogs and pulpwood.

Any sawlogs and pulpwood harvested on lands owned by the State may be transported without the limitations provided by this section where the limitations are based solely on the source of the sawlogs and pulpwood being state-owned lands, if, for lands administered by the Department of Conservation, the Commissioner of Conservation consents to the transport; or, for lands administered by the Baxter State Park Authority, the authority consents to the transport. Such consent shall be given where it is necessary to avoid severe economic hardship or to avoid the disruption of land management plans.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective October 19, 1987.

CHAPTER 556

H.P. 1411 — L.D. 1913

AN ACT to Amend the Comprehensive Protection for Ground Water Law.

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

38 MRSA §568, sub-§2, as repealed and replaced by PL 1987, c. 491, §15, is amended to read:

2. **Restoration of water supplies.** The department may clean up any discharge of oil and take temporary and permanent remedial actions at locations threatened or affected by the discharge of oil, including restoring or replacing water supplies contaminated or threatened by oil, petroleum products or their by-products, using the most cost-effective alternative that is technologically feasible and reliable and which effectively mitigates or minimizes damage to and provides adequate protection

of the public health, welfare and the environment. When the remedial action taken includes the installation of a public water supply, the fund may be used to pay costs of operation and maintenance and depreciation of the water supply for a period not exceeding 5 20 years. The department shall consult with the affected party prior to selecting the alternative to be implemented.

Effective January 9, 1988.

CHAPTER 557

H.P. 1398 — L.D. 1896

AN ACT to Prevent any Landfill from being Constructed Over or Near an Aquifer, to Maintain Regional Landfills and to Clarify the Intent of the Solid Waste Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, pending applications for landfills may pose a serious risk to ground water quality and public health; and

Whereas, changes in the solid waste disposal market and in the ownership of existing landfills may threaten established patterns of regional use of existing landfills; and

Whereas, these landfills were originally sited and approved specifically to provide long-term solutions to the solid waste disposal needs of regional towns and businesses; and

Whereas, disruption of these patterns of regional use will injure the citizens and businesses of the State that currently rely on those landfills through an increase in their disposal costs and the siting of additional landfill capacity in areas which are marginally suitable for those activities; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §1310-N, sub-§2-A is enacted to read:

2-A. Aquifer protection. The board shall not issue a license for a solid waste disposal facility when it finds that the proposed facility overlies a significant sand and gravel aquifer or when the board finds that the proposed

facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer which it does not overlie, or to an underlying fractured bedrock aquifer.

A. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water which are likely to provide drinking water supplies.

B. "Fractured bedrock aquifer" is defined as a consolidated rock formation which is fractured and which is saturated and recharged by precipitation percolating through overlying sediments to a degree which will permit wells drilled into the rock to produce a sufficient water supply for domestic use.

C. In determining whether or not the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer, the board shall require the applicant to provide:

(1) A thorough hydrogeological assessment of the proposed site and the contiguous area including any classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers which could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment shall include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer.

Sec. 2. 38 MRSA §1310-Q, as enacted by PL 1987, c. 517, §25, is repealed and the following enacted in its place:

§1310-Q. Transfer of license

1. Transfer. No person may transfer a license issued pursuant to this Title without the transfer of the license being approved by the board prior to transfer of the ownership of the property, facility or structure which constitutes or is part of the solid waste disposal facility. The board, at its discretion, may require that the proposed new owner of the facility apply for a new license or may approve the transfer of the existing license upon a satisfactory showing that the new owner can abide its terms and conditions and will be able to comply with the provisions of this Title. The board shall consider the extent to which the disposal facility was sited and developed and is currently operated to meet the capacity needs of municipalities within a specific geographic region. The board shall approve the transfer of license when, in addition to all other requirements of this Title, the applicant has demonstrated that:

A. The facility will continue to be operated to meet the municipal disposal capacity needs for which the facility was sited and developed and for which it is currently operated;

B. The applicant has made substantially equivalent, alternative provisions to satisfy these disposal capacity needs; or

C. These disposal capacity needs no longer exist.

Sec. 3. 38 MRSA §1310-S, sub-§5 is enacted to read:

5. Unincorporated townships and plantations. For the purposes of this section, county commissioners shall act as municipal officers for unincorporated townships, and assessors of plantations shall act as municipal officers for plantations.

Sec. 4. 38 MRSA §1310-V as enacted by PL 1987, c. 517, §25, is amended to read:

§1310-V. Moratorium

Prior to 91 days after the First Regular Session of the 113th Legislature adjourns, the department shall not process or act upon any application for, and the board shall not issue, a license for a new commercial landfill facility or the substantial expansion of a commercial landfill facility. In processing applications after the moratorium, priority shall be given to applications for commercial landfill facilities used for the disposal of solid waste which is generated by an energy recovery facility designed to reduce the volume or alter the physical characteristics of municipal solid waste and to produce electricity through incineration. Notwithstanding the provisions of Title 1, section 302, any application for a new or substantially expanded commercial landfill facility pending or filed after the effective date of this article and any application for an expanded commercial landfill facility filed after October 8, 1987, shall be subject to departmental rules regarding solid waste adopted pursuant to section 1304 and the provisions of Private and Special Law 1987, chapter 28. Notwithstanding other provisions of this Title, the department shall not issue a license for a new or substantially expanded commercial landfill facility under this article or for an expanded commercial landfill facility, the application for which was filed after October 8, 1987, until it has adopted rules pursuant to the provisions of Private and Special Law 1987, chapter 28.

For the purposes of this section, the term, "commercial landfill facility" is defined pursuant to section 1303, subsection 1-C, except that the term does not include a waste facility that is controlled by the owners of an energy recovery facility or facilities and that is used exclusively for the disposal of ash or other wastes processed and thereby generated by such energy recovery facility or facilities.

Sec. 5. 38 MRSA §1310-W is enacted to read:

§1310-W. County commissioners

1. General authority. County commissioners may enact ordinances to apply within the unincorporated townships and plantations within their jurisdiction for the regulation of solid waste disposal provided that these ordinances are not less stringent than or inconsistent with this Title or the land use regulation law, Title 12, sections 681 to 689.

2. Scope. Ordinances adopted by the county commissioners under this section may include such standards as the county commissioners find reasonable and necessary to protect the public health, safety and welfare and the environment, including without limitation, conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise which can be heard outside the facility; distance from existing residential, commercial or institutional uses; ground water protection; and compatibility of the solid waste disposal facility with zoning and land use controls administered by the Maine Land Use Regulation Commission.

3. Limitation. County commissioners are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility.

Sec. 6. Application. Notwithstanding the provisions of Title 1, section 302, this Act may apply to any application for a new or expanded solid waste disposal facility or for transfer of license for an existing solid waste disposal facility pending or filed after the effective date of this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective October 22, 1987.

CHAPTER 558

S.P. 671 — L.D. 1902

AN ACT to Reduce the Potential for Violence during Labor Disputes.

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

Sec. 1. 26 MRSA §595 is enacted to read:

§595. Hiring of workers during a labor dispute

1. Legislative findings. The Legislature finds that:

A. The practice of receiving applicants for employment, conducting interviews of job applicants or performing medical examinations of job applicants at the worksite of an employer who is currently engaged in a labor dispute with his employees tends to incite violence by bringing individuals who may be considered as replacements for workers to the physical focus of the labor dispute and by encouraging a direct confrontation between these individuals and the prior employees; and

B. The presence of persons carrying dangerous weapons near sites where applications for positions with an employer involved in a labor dispute are being accepted or where interviews of those job applicants are being conducted or medical examinations of those applicants are being performed creates an unacceptable risk of violence; and

C. The public safety requires the regulation of these practices to reduce the likelihood of violence.

2. Purpose. The purpose of this section is to reduce the potential for violence during labor disputes by prohibiting certain provocative acts and imposing penalties for failure to obey this section.

3. Receiving job applicants at worksite prohibited. No employer may perform any of the following acts at any of that employer's plants, facilities, places of business or worksites where a labor dispute, strike or lockout involving the employees of that employer is in progress:

A. Receiving persons for the purpose of soliciting or receiving applications for employment with the employer;

B. Conducting or having conducted interviews of applicants for employment with the employer; or

C. Performing or having performed medical examinations of applicants for employment with the employer.

Any employer who violates this subsection is subject to a civil penalty not to exceed \$10,000 for each day the violation continues, payable to the State, to be recovered in a civil action. Upon request, any court of competent jurisdiction shall also enjoin the violation under section 5.

The Attorney General, the Commissioner of Labor or any employee, employees or bargaining agent of employees involved in the labor dispute may file a civil action to enforce this subsection.

4. Hiring off-site permitted. An employer involved in a labor dispute, strike or lockout may perform hiring activities prohibited under subsection 3 at any site other than his customary plants, facilities, places of business or worksites where a labor dispute, strike or lockout involving the employees of that employer is in progress.