

# 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 scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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

---

---

3. Appeal. Any person affected by the determination of the director, whether or not such person participated in the proceedings resulting in such determination, may appeal to the board commissioner from such determination by filing a written notice with the board commissioner stating the specific grounds of his objection within 10 days from the filing of the copy of the determination with the Secretary of State. The board commissioner shall hold a hearing on the appeal, pursuant to Title 5, ~~section 9051 et seq.~~ subchapter IV, within 20 days from the receipt of notice of appeal. The hearing by the board commissioner shall be held in Augusta. The board commissioner shall have the authority to affirm, reverse or amend the determination of the director. The board commissioner shall render its a decision within 10 days after the conclusion of its the hearing.

Sec. 17. 29 MRSA c. 11, sub-c. VII, as amended, is repealed.

Sec. 18. 29 MRSA §2246, as amended by PL 1987, c. 251, §4, is repealed.

Sec. 19. PL 1987, c. 468, §4, is amended to read:

Sec. 4. Effective date. This Act shall take effect January July 1, 1988.

Sec. 20. P&SL 1973, c. 126, as amended, is repealed.

Sec. 21. P&SL 1979, c. 43 is repealed.

Effective August 4, 1988.

## CHAPTER 787

H.P. 1907 — L.D. 2604

### AN ACT to Implement the Recommendations of the Study of the Department of Environmental Protection.

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

Whereas, the study of the Department of Environmental Protection has identified numerous issues that impede the department's ability to carry out its statutory responsibilities; and

Whereas, the shortcomings identified by the study have been compounded by the rapid growth in the department's program and administrative responsibilities; and

Whereas, the resolution of these shortcomings is critical to the continued environmental and economic well-being of the citizens of Maine; and

Whereas, the study has identified a number of substan-

tive measures that could be undertaken immediately to resolve these issues; 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. 2 MRSA §6, sub-§4, as repealed and replaced by PL 1987, c. 402, Pt. A, §3, is amended to read:

4. Range 88. The salaries of the following state officials and employees shall be within salary range 88:

State Purchasing Agent;

Director, Arts and Humanities Bureau;

Director, State Museum Bureau;

Director of the Bureau of Parks and Recreation;

State Director of Alcoholic Beverages;

Executive Director, Retirement System;

Director of Public Lands;

State Librarian;

Director of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land Quality Control;

Director, Bureau of Water Quality Control; and

Director, Bureau of Oil and Hazardous Materials Control;;

Director, Bureau of Solid Waste Management; and

Director, Bureau of Administration.

Sec. 2. 5 MRSA §938, sub-§1, ¶¶F and G, as enacted by PL 1985, c. 746, §3, are amended to read:

F. Director, Bureau of Water Quality Control; and

G. Director, Bureau of Oil and Hazardous Materials Control;;

Sec. 3. 5 MRSA §938, sub-§1, ¶¶H and I are enacted to read:

H. Director, Bureau of Solid Waste Management; and

I. Director, Policy and Planning.

Sec. 4. 38 MRSA §342, sub-§5-A, as amended by PL 1987, c. 419, §3, is further amended to read:

5-A. Designation of deputy commissioner and directors. The commissioner may employ, to serve at his pleasure, the following:

A. A deputy commissioner;

C. ~~Bureau directors~~ Directors as defined in Title 5, section 938, subsection 1.

Sec. 5. 38 MRSA §351, last ¶, as amended by PL 1987, c. 192, §8, is further amended to read:

Money in the fund may only be expended in accordance with allocations approved by the Legislature. These allocations shall be based on estimates of the actual costs necessary for the department to administer licensing and permitting programs. Allowable expenditures include Personal Services, All Other and Capital Expenditures associated with prelicense or permit activities such as application reviews, public hearings and appeals, the actual license or permit processing activities and associated post-license or permit compliance activities required to assure continued licensee or permittee compliance and enforcement activities as a result of license or permit non-compliance.

Sec. 6. 38 MRSA §352, sub-§1, as enacted by PL 1983, c. 574, §1, is amended to read:

1. Fees established. The department shall establish procedures to charge applicants for ~~actual direct~~ costs incurred in reviewing license and permit applications. For the purposes of this subchapter, ~~direct costs may include, but not be limited to, personnel costs, travel, supplies, legal and computer services and all other costs specifically accountable to a particular license or permit application.~~

Sec. 7. 38 MRSA §352, sub-§2, ¶A, as amended by PL 1987, c. 419, §4, is further amended to read:

A. Processing fees shall be assessed for ~~direct~~ costs incurred in determining the acceptability of an application for processing and in processing an application to determine whether it meets statutory and regulatory criteria.

Sec. 8. 38 MRSA §352, sub-§3, as repealed and replaced by PL 1987, c. 419, §6, is amended to read:

3. Maximum fee. Except as provided in this subsection, no fee may exceed the maximum established in Table 1. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table 1, he may designate that application as subject to special fees. A special

fee shall not exceed \$40,000. Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. All department staff who have worked on the review of the application will submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application. The processing fee for that application shall be the actual cost to the department. The ~~application~~ applicant shall be billed quarterly and all fees must be paid prior to receipt of the permit.

Sec. 9. 38 MRSA §352, sub-§4, as amended by PL 1987, c. 180, §1, and as repealed and replaced by PL 1987, c. 419, §7, is repealed and the following enacted in its place:

4. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions shall keep accurate and regular daily time records. These records shall describe the matters worked on, services performed and amount of time devoted to those matters and services, as well as amounts of money expended in performing these functions. Records shall be kept for a sufficient duration as determined by the commissioner to establish to his satisfaction that the fees are appropriate. The following table is repealed on May 1, 1991.

TABLE I

MAXIMUM FEES IN DOLLARS

TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and §1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
362-A, Experiments	\$40	\$160
393, Great Ponds	75	50
410-E, Freshwater wetlands	100	50
413, Waste discharge license		
A. Residential	225	75
B. Commercial		
1. Flow of less than 2,000 gallons per day	2,400	640
2. Flow of 2,000 to 20,000 gallons per day inclusive	2,400	2,000
3. Flow of greater than 20,000 gallons per day	2,400	4,800
C. Industrial minor (based upon EPA list of major and minor source discharges)		

1. Discharges of cooling water, sanitary waste water or treated storm water only	1,500	480
2. All others	1,500	6,000
D. Industrial major (based upon EPA list of major source discharges)		
1. Discharge of cooling water or sanitary waste water only	4,800	3,000
2. All others	4,800	8,800
E. Publicly owned treatment works		
1. Flow of less than or equal to 50,000 gallons per day and no significant industrial component	100	400
2. Flow of greater than 50,000 gallons per day, but less than 0.5 million gallons per day and no significant industrial component	100	1,400
3. Flow of at least 0.5 million gallons per day, but less than 5 million gallons per day and no significant industrial component	100	3,600
4. Flow of at least 5 million gallons per day or a significant industrial component	300	5,400
F. Special discharges		
1. Aquatic pesticides	130	75
2. Dredge spoils	130	75
418, Log storage	55	25
421, Solid waste disposal areas	1,400	100
427, Alteration of rivers, streams and brooks	150	50
451, Mixing zones	1,200	2,200
451-A, Time schedule variances	25	25
471, Coastal wetlands and sand dunes	3,500	1,500
483, Site location		
A. Affordable housing subdivisions	50/lot	50/lot
A-1. Other subdivisions with public water and sewers	175/lot	175/lot
A-2. Other subdivisions	250/lot	250/lot
B. Structures	4,000	2,000
C. Mining	1,500	1,000
D. Other	1,000	1,000
543, Oily waste discharge	40	160
560, Vessels at anchorage	125	100
587, Ambient air quality or emissions standards variances	5,050	50
590, Air emissions licenses		
A. Greater than or equal to 1,000 tons per year of any criteria air pollutant	10,050	1,200
B. Greater than or equal to 100 tons per year, but less than 1,000 tons per year of any criteria air pollutant	5,050	400
C. Greater than or equal to 50 tons per year, but less than 100 tons per year of any criteria air pollutant	1,050	100
D. Less than 50 tons per year of any criteria air pollutant	525	50
633, Hydropower projects		
A. New or expanded generating capacity	450/MW	50/MW
B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	50	25
1101, Sanitary districts	150	50
1304, Nonhazardous waste facilities		

A. Septage facilities, other than landfill or landspreading sites	300	250
B. Sludge facilities, other than landfill or landspreading sites	550	500
C. Landspreading sites	300	100
D. Transfer stations	550	500
E. Landfills	4,725	4,500
F. Resource recovery and volume reduction facilities	1,575	1,500
G. Other, including land-applied utilization programs	550	250
H. Septage disposal site designation	50	25

United States Code, Title 33, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project relicensing

450/MW 50/MW

Sec. 10. 38 MRSA §352, sub-§§5 and 6 are enacted to read:

5. Maximum fees after 1991. Beginning May 1, 1991, the following maximum fees shall be in effect:

TABLE I		
MAXIMUM FEES IN DOLLARS		
TITLE 36 SECTION	PROCESSING FEE	CERTIFICATION FEE
656, sub-§1, ¶E, Pollution Control Facilities		
A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and \$1760, sub-§29, water pollution control facilities	\$250	\$20
B. Air pollution control and \$1760, sub-§30, air pollution control facilities	250	20
TITLE 38 SECTION	PROCESSING FEE	LICENSE FEE
362-A, Experiments	\$40	\$160
393, Great Ponds	75	50
410-E, Freshwater wetlands	100	50
413, Waste discharge license		
A. Residential	75	25
B. Commercial		
1. Flow of less than 2,000 gallons per day	600	160
2. Flow of 2,000 to 20,000 gallons per day inclusive	600	500
3. Flow of greater than 20,000 gallons per day	300	1,200
C. Industrial minor (based upon EPA list of major and minor source discharges)		
1. Discharges of cooling water, sanitary waste water or treated storm water only	500	160
2. All others	500	2,000
D. Industrial major (based upon EPA list of major source discharges)		
1. Discharge of cooling water or sanitary waste water only	1,200	750
2. All others	1,200	2,200
E. Publicly owned treatment works		
1. Flow of less than or equal	100	200

to 50,000 gallons per day and no significant industrial component		
2. Flow of greater than 50,000 gallons per day, but less than 0.5 million gallons per day and no significant industrial component	55	1,200
3. Flow of at least 0.5 million gallons per day, but less than 5 million gallons per day and no significant industrial component	100	1,800
4. Flow of at least 5 million gallons per day or a significant industrial component	100	1,800
F. Special discharges		
1. Aquatic pesticides	130	25
2. Dredge spoils	130	25
418, Log storage	55	25
421, Solid waste disposal areas	1,400	100
427, Alteration of rivers, streams and brooks	150	50
451, Mixing zones	1,200	2,200
451-A, Time schedule variances	25	25
471, Coastal wetlands and sand dunes	200	100
483, Site location		
A. Subdivisions	30/lot	25/lot
B. Structures	1,100	500
C. Mining	775	500
D. Other	775	500
543, Oily waste discharge	40	160
560, Vessels at anchorage	125	100
587, Ambient air quality or emissions standards variances	5,050	50
590, Air emissions licenses	5,050	50
A. Greater than or equal to 1,000 tons per year of any criteria air pollutant	10,050	1,200
B. Greater than or equal to 100 tons per year, but less than 1,000 tons per year of any criteria air pollutant	5,050	400
C. Greater than or equal to 50 tons per year, but less than 100 tons per year of any criteria air pollutant	1,050	100
D. Less than 50 tons per year of any criteria air pollutant	525	50
633, Hydropower projects		
A. New or expanded generating capacity	450/MW	50/MW
B. Maintenance and repair or other structural alterations not involving an increase in generating capacity	50	25
1101, Sanitary districts	150	50
1304, Nonhazardous waste facilities		
A. Septage facilities, other than landfill or landspreading sites	300	250
B. Sludge facilities, other than landfill or landspreading sites	550	500
C. Landspreading sites	50	35
D. Transfer stations	550	500
E. Landfills	1,575	1,500
F. Resource recovery and volume reduction facilities	1,575	1,500
G. Other, including land-applied utilization programs	550	250
H. Septage disposal site designation	50	25
United States Code, Title 33, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project relicensing	450/MW	50/MW

6. Reporting requirements. The department shall report, before February 1st of each year, to the joint standing committee of the Legislature having jurisdiction over natural resources on the effects of the license fee increases on department efficiency and license and permit processing time.

Sec. 11. 38 MRSA §353, sub-§3, as amended by PL 1987, c. 419, §8, is further amended to read:

3. License fee. A license fee shall be paid at the time of filing the application. Failure to pay the license fee at the time of filing will result in the application being returned to the applicant. The department shall refund the license fee if the board or commissioner denies the application or if the application is withdrawn by the applicant. Notwithstanding the provisions of this subsection, the license fee for a subdivision shall be paid prior to the issuance of the license.

Sec. 12. 38 MRSA §361-A, sub-§1-F is enacted to read:

1-F. Affordable housing. "Affordable housing" means dwellings, apartments or other living accommodations for households making at or below 80% of the median household income as determined by the Department of Economic and Community Development.

Sec. 13. 38 MRSA §562, sub-§13, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

13. Underground oil storage facility. "Underground oil storage facility," also referred to as "facility," means any underground oil storage tank or tanks, as defined in subsection 14, together with associated piping and dispensing facilities located under any land at a single location and used, or intended to be used, for the storage or supply of oil, as defined in this subchapter. Underground oil storage facility also includes piping located under any land at a single location associated with above ground storage tanks and containing 10% or more of the facility's overall volume capacity.

Sec. 14. 38 MRSA §568, sub-§1, as repealed and replaced by PL 1987, c. 491, §15, is amended to read:

1. Removal. Any person discharging or suffering a discharge of oil, petroleum products or their by-products to ground water in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the department's satisfaction. Notwithstanding this requirement, the ~~commissioner~~ commissioner may order the removal of that discharge pursuant to subsection 3, or the department may undertake the removal of that discharge and retain agents and contractors for that purpose who shall operate under the direction of the department. Any unexplained discharge of oil, petroleum products or their by-products to ground water within state jurisdiction shall be removed by or under the direction of the department. Any expenses involved in the removal of discharges, whether by the person causing

the same, the person reporting the same or the department by itself or through its agents or contractors, may be paid in the first instance from the Ground Water Oil Clean-up Fund and any reimbursements due that fund shall be collected in accordance with section 569.

Sec. 15. 38 MRSA §570-G, as enacted by PL 1987, c. 491, §24, is amended to read:

§570-G. Construction

This subchapter is necessary for the general welfare, public health and public safety of the State and its inhabitants and shall be liberally construed to effect the purposes set forth under this subchapter. No rule or order of the ~~board~~ department may be stayed pending appeal under this subchapter.

Sec. 16. 38 MRSA §1303, sub-§10-B, ¶H, as enacted by PL 1987, c. 517, §6, is repealed and the following enacted in its place:

H. Medical and other biological waste not identified under section 1319-O, subsection 1, paragraph A, subparagraph (4);

Sec. 17. 38 MRSA §1319-H, sub-§1, ¶A, as amended by PL 1985, c. 746, §30, is further amended to read:

A. Any person who applies for a license for a hazardous waste facility shall pay the appropriate fee. An application for a license will not be considered complete and will not be processed until this fee is received. Application fees are as follows.

- (1) Disposal facility . . . . . \$10,000
- (2) Commercial treatment facility . . . . . 7,000
- (3) On-site treatment facility . . . . . 4,000
- (4) Other waste facility for hazardous waste, including ~~treatment storage facilities other than on-site and commercial treatment facilities~~ . . . . . 2,500
- (5) Waste oil storage facility . . . . . 2,500
- (6) Treatment facility under license by rule provisions where the hazardous waste treated is ~~less than 200~~ 1,000 kilograms or less per calendar month . . . . . 75
- (7) All other facilities for hazardous waste under license by rule provisions . . . . . 400

Sec. 18. 38 MRSA §1319-H, sub-§2, as enacted by PL 1985, c. 746, §31, is amended to read:

2. Annual fees. Licensed hazardous waste facilities are subject to the following annual fees.

- A. Disposal facility . . . . . \$1,500

B. Commercial treatment facility and on-site treatment facility . . . . . 1,000

C. Other waste facilities for hazardous waste, including ~~treatment storage facilities other than on-site and commercial treatment facilities~~ . . . . . 500

D. Waste oil storage facility . . . . . 500

E. Treatment facility under license by rule provisions where the hazardous waste treated is ~~less than 200~~ 1,000 kilograms or less per calendar month . . . . . 100

F. All other facilities for hazardous waste under license by rule provisions . . . . . 200

Sec. 19. 38 MRSA §1319-I, sub-§3, as repealed and replaced by PL 1987, c. 491, §25, is amended to read:

3. Fee for transportation into Maine from out of state. If hazardous waste or waste oil is transported into Maine from out of state, the person who first transports the hazardous waste or waste oil into Maine shall pay a fee equal to twice the amount indicated by the schedules outlined in subsection 2 for hazardous waste or ~~subsection 5 subsection 4-A~~ for waste oil, as if that person were the waste oil dealer.

The commissioner may waive up to 50% of the fee imposed under this subsection if the state from which the hazardous waste or waste oil is transported to Maine observes the same reciprocity with regard to hazardous waste transported to that state from Maine.

Sec. 20. 38 MRSA §1478, sub-§3, as enacted by PL 1983, c. 500, §5, is amended to read:

3. Municipal participation. The municipality in which the proposed facility would be located may participate in the departmental site review using procedures conformed to the procedures for municipal participation in siting ~~or of~~ hazardous waste facilities under ~~section 1305-A, subsection 2~~ section 1319-R, subsection 3.

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

Effective April 27, 1988.

---

---

CHAPTER 788

S.P. 1007 — L.D. 2640

AN ACT to Adjust the Rainy Day Fund Program.

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