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An Act To Ensure Safe Drinking Water from Private Wells

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

Sec. 1. 22 MRSA c. 601, sub-c. 8 is enacted to read:

SUBCHAPTER 8

PRIVATE WELL TESTING ACT

§ 2660-M. Short title

This subchapter may be known and cited as "the Private Well Testing Act."

§ 2660-N. Water testing of private wells

1. Water testing; provision of contract of sale. A contract of sale of real property for which the potable water supply is a private well located on the property or for which the potable water supply is a well that has fewer than 15 service connections or that does not regularly serve an average of at least 25 individuals daily at least 60 days out of the year must include a provision requiring, as a condition of the sale, the testing of the water supply for at least the elements described in subsections 3 and 4.

2. Review water test results. The sale of real property under subsection 1 may not occur unless both the buyer and the seller have received and reviewed a copy of the water test results. At closing, both the buyer and seller shall certify in writing that they have received and reviewed the water test results.

3. Water test elements. A water test conducted in accordance with this subchapter must include a test for arsenic and uranium.

4. Additional elements. The department may adopt rules that list additional elements that the department determines significant and that must be included as part of a water test conducted in accordance with this subchapter.

5. Exclusion. The department, in consultation with the State Geologist, may adopt rules to exclude or limit by geographic area or geologic formation or based upon well record information any element listed in subsection 3 that the department determines is not significant in a specific area and does not have to be tested for as part of a water test to be conducted in accordance with this subchapter.

6. Time period. For each element to be tested in accordance with this subchapter, the department shall adopt rules that establish a maximum time period for which a test result remains valid for the purposes of subsection 2 without necessitating retesting for that element. A retest of the water supply is not required pursuant to subsection 1 if the contract of sale is entered into within the period of test validity

established pursuant to this subsection. Notwithstanding any provision of this subsection, a buyer and seller subject to the provisions of subsection 1 may mutually agree to retest for an element even though the maximum time period for test validity for that element has not expired.

7. Rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 2660-O. Water testing by laboratory

1. Approved laboratory. A water test conducted in accordance with this subchapter must be conducted by a laboratory approved by the department pursuant to section 2607.

2. Report. A water test result provided by a laboratory to the person requesting the test must include the maximum contaminant levels allowable or other established water quality standards prescribed by the department for each element tested. The results must be transmitted on a standardized private well water test reporting form provided by the department. The form must provide information regarding remediation alternatives available and must refer the buyer and seller of the real property to appropriate resources for further information regarding any alternatives. The department may establish rules to set quality standards. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Information required. The laboratory, within 5 days after completion of a water test under this subchapter, shall submit the water test results to the department together with the following information:

- A. A statement that the testing is for the purpose of complying with the Private Well Testing Act;
- B. The location of the real property, described by block and lot number, street address, municipality and county;
- C. The name and mailing address of the person making the request for the test;
- D. The name of the employee or authorized representative of the laboratory who collected the well sample;
- E. The date and time that the water sample was collected and the specific point of collection;
- F. The date and time the sample was analyzed by the laboratory; and
- G. Any other information the department may require.

4. Submission. The department may require a laboratory to submit electronically the information required pursuant to subsection 3.

5. Release of results. A laboratory may not release water test results under this subchapter to a person except the buyer and seller of the real property pursuant to section 2660-N, the lessor of the real property pursuant to section 2660-Q, a person authorized by the buyer, seller or lessor, the department or a person designated by court order.

6. Data. The department shall compile the data accumulated from the water test results submitted by laboratories pursuant to this section in a manner that is useful to the department, counties, municipalities or other governmental entities for the purposes of studying groundwater supplies or contamination in the State.

§ 2660-P. Actions on water testing results

1. Notification. The department, within 5 business days after receiving a report of a water test failure in accordance with this subchapter, shall provide notice of the test failure to the municipality, health agency, designated local health officer or other governmental entity, as appropriate to each region in which the private well that failed the water test is located. The municipality, health agency, designated health officer or other governmental entity may issue a general notice to owners of real property served by private wells located in the vicinity of the real property experiencing the water test failure suggesting or recommending that those property owners have their private wells tested for at least the elements at issue. The specific address or location of the private well that failed a water test may not be identified in the notice or by any other means or in any other manner. The department shall establish criteria for notification that may include, but are not limited to, test levels at which notification is recommended and the area in the vicinity of the contaminated well for which testing is recommended. It is at the sole discretion of the municipality, health agency, designated local health officer or other governmental entity whether or not to issue a notice and to whom and by what means the notice must be given.

2. Confidentiality. Water test results received by the department, a municipality, health agency, designated health officer or any other governmental entity in compliance with or as authorized by this subchapter are confidential and may not be open for public examination, inspection or copying. General compilations of water test results data arranged or identified by county and municipality or appropriate geographic areas that do not include specific address or location information may be made available to the public.

§ 2660-Q. Lessor's water testing responsibilities

By March 1, 2009 and at least once every 5 years thereafter, a lessor of real property for which the potable water supply is a private well that water testing is not required for pursuant to any other state law shall test the water supply in the manner established by this subchapter for at least the elements required pursuant to section 2660-N. Within 30 days after receipt of the test results, the lessor shall provide a written copy of the test results to each rental unit on the property. The lessor shall also provide a written copy of the most recent test results to a new lessee of a rental unit on the property.

§ 2660-R. Authority not preempted

Nothing in this subchapter may be construed to limit or preempt the existing authority of any governmental entity to make or cause to be made an inspection and testing of a water supply that may be necessary to ensure the health and safety of the residents of the State.

Sec. 2. Public information and education program. The Department of Health and Human Services, in consultation with health agencies, designated health officers and other appropriate governmental entities, shall establish a public information and education program to inform the public and appropriate professional disciplines of the enactment of the Maine Revised Statutes, Title 22, chapter 601, subchapter 8 and the substance of its provisions and requirements. The program must include:

1. The potential health effects of consuming water from a private well that does not meet contaminant level standards and other established water quality standards;
2. The potential presence of arsenic, uranium and other contaminants in at least some potable groundwater supplies in the State;
3. The geographic areas in the State subject to an actual or potential threat from contaminated groundwater;
4. The importance of testing private wells regularly for contaminants; and
5. Suggested water treatment techniques, equipment and strategies and public funding sources available for treating water from private wells that have failed a water test conducted in accordance with Title 22, chapter 601, subchapter 8.

The department shall once a year make available to the public a general compilation of water test results data pursuant Title 22, chapter 601, subchapter 8 arranged or identified by county and municipality or appropriate geographic areas that does not include specific address or location information.

Sec. 3. Report to Legislature. No later than January 15, 2012, the Department of Health and Human Services, in consultation with municipalities, health agencies, designated health officers and other appropriate governmental entities, shall prepare and submit a report on the implementation of the Maine Revised Statutes, Title 22, chapter 601, subchapter 8 to the joint standing committee of the Legislature having jurisdiction over agriculture matters. The report must describe the benefits and deficiencies realized as a result of that subchapter and include recommendations for any legislative action. This report must also be made available to the public free of charge.

SUMMARY

This bill enacts the Private Well Testing Act. The bill requires that a water test be done on a private well before a property may be sold. The bill also designates who may perform the water tests. The bill also requires the Department of Health and Human Services to provide a copy of a failed test result to the municipality, health agency, local health officer and any other governmental entity in the area that the private well is located. The bill requires a lessor to have a private well tested every 5 years beginning in 2009. The bill also requires the department to establish a public information and education program to inform the public of the enactment of the Private Well Testing Act and the substance of its provisions and requirements. The department is required to submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture matters by January 15, 2012.