



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1532

H.P. 1136

House of Representatives, April 19, 2021

An Act To Protect Maine's Air Quality by Strengthening Requirements for Air Emissions Licensing

Received by the Clerk of the House on April 15, 2021. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MORALES of South Portland.
Cosponsored by Senator CHIPMAN of Cumberland and
Representatives: KESSLER of South Portland, MILLETT of Cape Elizabeth, RECKITT of
South Portland, TALBOT ROSS of Portland, Senator: CARNEY of Cumberland.

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

2 **Sec. 1. 38 MRSA §352, sub-§5-A**, as amended by PL 2019, c. 374, §1 and c. 526,
3 §2, is further amended to read:

4 **5-A. Accounting system.** In order to determine the extent to which the functions set
5 out in this section are necessary for the licensing process or are being performed in an
6 efficient and expeditious manner, the commissioner shall require that all employees of the
7 department involved in any aspect of these functions keep accurate and regular daily time
8 records. These records must describe the matters worked on, services performed and the
9 amount of time devoted to those matters and services, as well as amounts of money
10 expended in performing those functions. Records must be kept for a sufficient duration of
11 time as determined by the commissioner to establish to the commissioner's satisfaction that
12 the fees are appropriate.

13 TABLE I

14
15 MAXIMUM FEES IN DOLLARS

17 TITLE 36 SECTION	18 PROCESSING 19 FEE	20 CERTIFICATION 21 FEE
22 656, sub-§1, ¶E, Pollution Control Facilities		
23 A. Water pollution control facilities with 24 capacities at least 4,000 gallons of waste per 25 day and §1760, sub-§29, water pollution 26 control facilities	\$250	\$20
27 B. Air pollution control and §1760, sub-§30, 28 air pollution control facilities	250	20
29 TITLE 38 SECTION	30 PROCESSING FEE	31 LICENSE FEE
32 344, sub-§7, Permit by rule	\$250	\$0
33 413, Waste discharge licenses	See section 353-B	
34 420-D, Storm water management		
35 A. If structural means of storm 36 water control are used	\$400 for the first acre of 37 disturbed area, plus \$200 for 38 each additional whole acre 39 of disturbed area	\$100 for the first acre 40 of disturbed area, plus 41 \$50 for each additional 42 whole acre of disturbed 43 area
44 B. If solely vegetative means of storm water control are used	\$200 for the first acre of disturbed area, plus \$100 for each additional whole acre of disturbed area	\$50 for the first acre of disturbed area, plus \$25 for each additional whole acre of disturbed area
C. When a permit by rule is required	\$55	none

1	If a project described in paragraph A or B is reviewed and approved by a professional		
2	engineer at a soil and water conservation district office that has a memorandum of		
3	understanding with the department concerning review of projects pursuant to this		
4	section, the total applicable fee is reduced to a processing fee of \$100 for the first acre		
5	of disturbed area, plus a license fee of \$50 for each additional whole acre of disturbed		
6	area.		
7	480-E, Natural resources		
8	protection		
9	A. Any alteration of a protected	140	50
10	natural resource, except coastal		
11	wetlands and coastal sand		
12	dunes, causing less than 20,000		
13	square feet of alteration of the		
14	resource		
15	B. Any alteration of a coastal	240	60
16	wetland causing less than		
17	20,000 square feet of alteration		
18	of the resource		
19	C. Any alteration of a protected	.015/sq. ft. alteration	.005/sq. ft. alteration
20	natural resource, except coastal		
21	sand dunes, causing 20,000		
22	square feet or more of alteration		
23	of the resource		
24	C-1. Significant groundwater	4,577	1,961
25	well		
26	C-2. Activity within a	183	64
27	community public water supply		
28	primary protection area		
29	D. Any alteration of a coastal	3,500	1,500
30	sand dune		
31	E. Condition compliance	84	0
32	F. Minor modification	184	0
33	485-A, Site location of		
34	development		
35	A. Residential subdivisions		
36	1. Affordable housing	50/lot	50/lot
37	2. On public water and sewers	175/lot	175/lot
38	3. All Other	250/lot	250/lot
39	B. Industrial parks	460/lot	460/lot
40	C. Mining	1,500	1,000
41	D. Structures	4,000	2,000
42	E. Other	1,000	1,000
43	543, Oily waste discharge	40	160
44	560, Vessels at anchorage	125	100
45	587, Ambient air quality or	5,050	50
46	emissions standards variances		
47	590, Air emissions licenses	See section 353-A	
48	633, Hydropower projects		

1	A. New or expanded generating	450/MW	50/MW
2	capacity		
3	B. Maintenance and repair or	150	150
4	other structural alterations not		
5	involving an increase in		
6	generating capacity		
7	33 United States Code, Chapter		
8	26, Water Quality Certifications,		
9	in conjunction with applications		
10	for hydropower project licensing		
11	or relicensing		
12	A. Initial consultation	1,000	0
13	B. Second consultation	1,000	0
14	C. Application		
15	1. Storage	1,000	0
16	2. Generating	300/MW	50/MW
17	1304, Waste management		
18	A. Septage disposal		
19	1. Site designation	50	25
20	B. Land application of sludges		
21	and residuals program approval		
22	1. Industrial sludge	400	400
23	2. Municipal sludge	300	275
24	3. Bioash	300	275
25	4. Wood ash	300	75
26	5. Food waste	300	75
27	6. Other residuals	300	175
28	C. Landfill		
29	1. Closing plans for secure	1,500	1,500
30	landfills		
31	2. Closing plans for	500	500
32	attenuation landfills		
33	3. Post-closure report	175	175
34	4. Preliminary information	175	175
35	reports		
36	5. License transfers	500	175
37	6. Special waste disposal		
38	a. One-time disposal of	50	50
39	quantities of 6 cubic yards		
40	or less		
41	b. One-time disposal of	100	100
42	quantities greater than 6		
43	cubic yards		
44	c. Program approval for	300	300
45	routine disposal of a		
46	special waste		
47	7. Minor revision for secure	600	100
48	landfills		

1	8. Minor revision for	100	100
2	attenuation landfills		
3	9. Public benefit	175	175
4	determination		
5	D. Incineration facility		
6	2. License transfer	175	175
7	E. License transfer other than	100	100
8	for landfills and incinerators		
9	F. Minor revision for septage	100	100
10	facilities and solid waste		
11	facilities other than landfills		
12	G. Permit by rule for one-time	100	100
13	activities		

TABLE II

WASTE MANAGEMENT FEES - ANNUAL LICENSE

MAXIMUM FEES IN DOLLARS

20	TITLE 38 SECTION	PROCESSING	ANNUAL
21		FEE	LICENSE FEE
22	1278, Asbestos abatement		
23	A. Asbestos abatement contractor	\$0	\$650
24	B. Asbestos abatement worker	0	50
25	C. Asbestos consultant	0	650
26	D. Asbestos analytical laboratory	0	400
27	E. Training provider	0	500
28	F. Other categories of asbestos professionals	0	100
29	except asbestos abatement workers		
30	G. Notification		
31	1. Project size greater than 100 square feet or	100	0
32	100 linear feet and less than 500 square feet or		
33	2,500 linear feet		
34	2. Project size 500 square feet or 2,500 linear	150	0
35	feet, or greater, and less than 1,000 square feet		
36	or 5,000 linear feet		
37	3. Project size 1,000 square feet or 5,000 linear	300	0
38	feet, or greater		
39	1304, Waste management		
40	A. Septage disposal		
41	1. Landspreading	\$550	\$250
42	2. Storage	50	75
43	B. Residuals compost facility		
44	1. Type I	150	150

1	3. Type II and Type III less than 3,500 cubic	700	500
2	yards		
3	5. Type II and Type III 3,500 cubic yards or	1,400	850
4	greater		
5	C. Land application of sludges and residuals		
6	1. Sites with program approval		
7	a. Industrial sludge	150	250
8	b. Municipal sludge	75	200
9	c. Bioash	75	200
10	d. Wood ash	50	125
11	e. Food waste	50	125
12	f. Other residuals	50	125
13	2. Sites without program approval		
14	a. Industrial sludge	300	550
15	b. Municipal sludge	150	250
16	c. Bioash	150	250
17	d. Wood ash	75	200
18	e. Food waste	75	200
19	f. Other	75	200
20	1310-N, Solid waste facility siting		
21	A. Landfill		
22	1. Existing, nonsecure municipal solid waste	3,500	1,000
23	landfills accepting waste from fewer than		
24	15,000 people		
25	2. Existing, nonsecure municipal solid waste	3,500	3,500
26	landfills accepting waste from more than		
27	15,000 people		
28	3. New or expanded for secure landfill	5,000	8,500
29	5. Nonsecure wood waste or demolition debris	700	750
30	landfills, or both, if less than or equal to 6 acres		
31	B. Incineration facilities		
32	1. New or expanded for the acceptance of	3,500	5,000
33	municipal or special wastes, or both		
34	2. Municipally owned and operated solid waste	3,500	1,000
35	incinerators with licensed capacity of 10 tons		
36	per day or less		
37	C. Transfer station and storage facility	750	175
38	D. Tire storage facility	400	450
39	F. Processing facility other than municipal solid	700	700
40	waste composting		
41	G. Beneficial use activities other than agronomic		
42	utilization		
43	3. Fuel substitution	700	500
44	4. Beneficial use without risk assessment	700	200
45	5. Beneficial use with risk assessment	1,400	500
46	H. Permit by rule for ongoing activities	100	100
47	3109, Redemption centers	0	100

1 **Sec. 2. 38 MRSA §587**, as amended by PL 1989, c. 878, Pt. A, §115; c. 890, Pt. A,
2 §40; and Pt. B §§161 and 162, is repealed.

3 **Sec. 3. 38 MRSA §589, sub-§1, ¶B**, as enacted by PL 1991, c. 384, §9 and affected
4 by §16, is repealed.

5 **Sec. 4. 38 MRSA §589-B** is enacted to read:

6 **§589-B. Civil penalties**

7 Notwithstanding section 349, subsection 2, a person licensed or required to be licensed
8 under section 590 who violates any applicable air quality or emissions standard under this
9 chapter or the rules adopted pursuant to this chapter is subject to a civil penalty, payable to
10 the State, of not less than \$25,000 and not more than \$100,000 for each day of that
11 violation. The State must transfer any civil penalty recovered under this subsection to the
12 municipality where the violation occurred. This penalty is recoverable in a civil action.

13 **Sec. 5. 38 MRSA §590, sub-§2**, as enacted by PL 1991, c. 658, §1, is amended to
14 read:

15 **2. Applications.** Applications for air emission licenses must be made in a form
16 prescribed by the commissioner and contain the information related to the proposed air
17 contamination source and emission of air contaminants required by rule of the board and a
18 plan that outlines the steps that will be taken by the applicant to protect the public health
19 of the community. The department shall review and approve or require modifications to
20 the plan submitted under this section in consultation with the Department of Health and
21 Human Services, Maine Center for Disease Control and Prevention. All hearings under
22 this section must be held in a municipality within the region where the proposed emission
23 is to be located. At this hearing, the department shall solicit and receive testimony
24 concerning the nature of the proposed emissions; their effect on existing ambient air quality
25 standards within the region; the availability and effectiveness of air pollution control
26 apparatus designed to maintain the emission for which a license is sought at the levels
27 required by law; and the expense of purchasing and installing this apparatus. The
28 department shall grant the license and may impose appropriate and reasonable conditions
29 as necessary to secure compliance with ambient air quality standards if the department finds
30 that ~~the proposed emission will:~~

- 31 A. ~~Receive~~ The proposed emission will receive the best practical treatment;
32 B. ~~Not~~ The proposed emission will not violate or be controlled so as not to violate
33 applicable emission standards; and
34 C. ~~Either~~ The proposed emission will either alone or in conjunction with existing
35 emissions, not violate or be controlled so as not to violate applicable ambient air quality
36 standards;
37 D. The source of emissions is not located in an area zoned for residential use or within
38 1,000 feet of a residence;
39 E. The applicant will install a source emission testing system; and
40 F. The applicant will conduct continuous monitoring along the property boundary
41 where the source of emissions is located.

42 **Sec. 6. 38 MRSA §590, sub-§8** is enacted to read:

1 **8. Hearings.** All applications for an air emission license or license renewal must
2 receive a public hearing in the municipality where the source of proposed air emissions is
3 located. Written notice of hearing must be sent by the applicant for a license or license
4 renewal by first-class mail with proof of mailing to the municipal offices and all addresses,
5 commercial and residential, within a 5-mile radius of the source within 60 days of the
6 hearing. Notice must include an electronic link where information about the proposed
7 license application or proposed license renewal can be found. The department shall solicit
8 public comment during the hearing for a license application or license renewal. For an
9 application for an air emission license, the department shall solicit and receive testimony
10 concerning the nature of the proposed emissions; the emissions' effect on existing ambient
11 air quality within the municipality where the source is located; the availability and
12 effectiveness of air pollution control apparatus designed to maintain the emission for which
13 a license is sought at the levels required by law; and the expense of purchasing and
14 installing this apparatus.

15 **Sec. 7. 38 MRSA §590-A, first ¶**, as amended by PL 2011, c. 538, §13, is further
16 amended to read:

17 The term of air emission licenses is ~~40~~ 3 years, except ~~that the term of licenses for air~~
18 ~~contaminant sources subject to when~~ the state permitting provisions of 40 Code of Federal
19 Regulations, Part 70 is 5 years and licenses issued pursuant to rules adopted pursuant to
20 section 580-B, subsection 4, paragraph D have no stipulate a fixed term for licenses, in
21 which case the term of the license is the specified fixed term. The board may establish, by
22 rule, shorter license terms for the following source categories as it considers necessary to
23 protect the public health, safety and welfare:

24 **Sec. 8. Application.** That section of this Act that amends the Maine Revised
25 Statutes, Title 38, section 590-A does not apply to licenses issued before the effective date
26 of this Act.

27 SUMMARY

28 This bill repeals the provision that allows the Department of Environmental Protection
29 to grant a variance from ambient air quality standards to a person who owns or is in control
30 of specified sources for which an air emission license was granted. It repeals the provision
31 that prohibits the Commissioner of Environmental Protection from requiring a person to
32 submit more than one copy of ambient monitoring data or meteorological data more
33 frequently than quarterly.

34 This bill also:

- 35 1. Creates new hearing requirements for applications for air emission licenses or
36 renewals;
- 37 2. Creates new civil penalties for violation of air emission standards and requires any
38 penalties recovered to be transferred to the municipality where the violation occurred;
- 39 3. Prohibits the department from granting a license when certain requirements are not
40 met; and
- 41 4. Changes the term of an air emission license to 3 years, except when the term is
42 specified in federal law as a fixed term.