§2660-A. Restrictions on transport of water

1. Prohibition. Except as otherwise provided in this section, a person may not transport water for commercial purposes by pipeline or other conduit or by tank vehicle or in a container, greater in size than 10 gallons, beyond the boundaries of the municipality or township in which water is naturally located or any bordering municipality or township.
[PL 2013, c. 381, Pt. B, §2 (AMD).]

2. Exceptions. The prohibition in this section does not apply to:

A. Any water utility as defined in Title 35-A; [PL 1987, c. 745, §1 (NEW); PL 1987, c. 816, Pt. KK, §20 (NEW).]

B. Water transported for use in well drilling, construction activities, concrete mixing, swimming pool filling, servicing portable toilets, firefighting, hospital operations, aquaculture, agricultural applications or civil emergencies; [PL 1987, c. 745, §1 (NEW); PL 1987, c. 816, Pt. KK, §20 (NEW).]

C. Water distilled as a by-product of a manufacturing process; [PL 2007, c. 399, §4 (AMD).]

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale and that is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product; and [PL 2007, c. 399, §4 (AMD).]

E. Water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Planning Commission. [PL 2007, c. 399, §4 (NEW); PL 2011, c. 682, §38 (REV).]
[PL 2007, c. 399, §4 (AMD); PL 2011, c. 682, §38 (REV).]

3. Appeal. The commissioner, after consultation with the Public Utilities Commission, the Department of Environmental Protection and the State Geologist, may authorize transport of water for commercial purposes if the commissioner finds that:

A. Transport of the water will not constitute a threat to public health, safety or welfare; and [PL 2007, c. 399, §5 (AMD).]

B. [PL 2007, c. 399, §6 (RP).]

C. [PL 2007, c. 399, §7 (RP).]

D. For a source not otherwise permitted by the Department of Environmental Protection or the Maine Land Use Planning Commission, the water withdrawal will not have an undue adverse effect on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commissioner shall consider both the direct effects of the proposed water withdrawal and its effects in combination with existing water withdrawals. [PL 2005, c. 452, Pt. A, §2 (AMD); PL 2011, c. 682, §38 (REV).]

Any authorization under this subsection is for a period not to exceed 3 years but may be renewed subject to the same criteria. The department may adopt rules necessary for the implementation of this subsection. The rules may include imposition of a fee to cover the costs of providing permits, including any impact studies required by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 399, §§5-7 (AMD); PL 2011, c. 682, §38 (REV).]

3-A. Conditions of authorization. Notwithstanding Title 1, section 302, the exceptions authorized in subsection 2 and any authorization granted under subsection 3 shall be subject to future legislative limitations of the right to transport water.

[PL 1987, c. 745, §2 (NEW); PL 1987, c. 816, Pt. KK, §21 (NEW).]

4. Emergencies. In case of an emergency, any person may transport water as necessary for the duration of the emergency, but the person transporting the water must inform the commissioner within 3 days and the commissioner may determine when the emergency is over.
[PL 1987, c. 531, §1 (NEW).]

5. Penalty. Any person who transports water in violation of this section is guilty of illegal transport of water. Illegal transport of water is a Class D crime. Each shipment or day of transport, if by pipeline, is a separate offense.
[PL 1987, c. 531, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 531, §1 (NEW). PL 1987, c. 745, §§1,2 (AMD). PL 1987, c. 816, §§KK20,KK21 (AMD). PL 1989, c. 502, §B22 (AMD). PL 1997, c. 587, §2 (AMD). PL 2003, c. 121, §1 (AMD). PL 2005, c. 452, §A2 (AMD). PL 2007, c. 399, §§4-7 (AMD). PL 2011, c. 682, §38 (REV). PL 2013, c. 381, Pt. B, §2 (AMD).

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