

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.

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 3	Sec. 1. 38 MRSA §352, sub-§5-A, as amended by PL 2019, c. 374, §1 and c. 526, §2, is further amended to read:			
4 5 6 7 8 9 10 11 12	5-A. 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 keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate.			
13	TABLE I			
14				
15 16	MAX	IMUM FEES IN	DOLLARS	
17 18 19	TITLE 36 SECTION		PROCESSIN FEE	G CERTIFICATION FEE
20 21 22 23 24 25 26 27	 656, sub-§1, ¶E, Pollution Control A. Water pollution control facili capacities at least 4,000 gallons day and §1760, sub-§29, water p control facilities B. Air pollution control and §17 air pollution control facilities 	ities with of waste per collution		250 \$20 250 20
28 29	TITLE 38 SECTION	PROCESSI	NG FEE	LICENSE FEE
30 31 32 33 34 35 36	344, sub-§7, Permit by rule413, Waste discharge licenses420-D, Storm water managementA. If structural means of storm water control are used	\$400 for the first disturbed area, j each additional of disturbed are	plus \$200 for whole acre	\$0 353-B \$100 for the first acre of disturbed area, plus \$50 for each additional whole acre of disturbed
37 38 39 40 41 42	B. If solely vegetative means of storm water control are used		st acre of plus \$100 for whole acre a	area \$50 for the first acre of disturbed area, plus \$25 for each additional whole acre of disturbed area
43 44	C. When a permit by rule is required		\$55	none

1 2 3 4 5	If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the total applicable fee is reduced to a processing fee of \$100 for the first acre of disturbed area, plus a license fee of \$50 for each additional whole acre of disturbed		
6	area.		
7	480-E, Natural resources		
8 9	protection	140	50
9 10	A. Any alteration of a protected	140	50
10	natural resource, except coastal wetlands and coastal sand		
11			
12	dunes, causing less than 20,000		
13 14	square feet of alteration of the resource		
14	B. Any alteration of a coastal	240	60
16	wetland causing less than	240	00
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	.013/sq. It. alteration	.005/sq. 11. alteration
20	sand dunes, causing 20,000		
22	square feet or more of alteration		
23	of the resource		
23 24	C-1. Significant groundwater	4,577	1,961
24 25	well	4,577	1,901
23 26	C-2. Activity within a	183	64
20 27	community public water supply	165	04
28	primary protection area		
28 29	D. Any alteration of a coastal	3,500	1,500
30	sand dune	5,500	1,500
31	E. Condition compliance	84	0
32	F. Minor modification	184	0
33	485-A, Site location of	104	0
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	2,000	20
47	590, Air emissions licenses	See section 3:	53-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		100

1	8. Minor revision for	100	100
2 3	attenuation landfills 9. Public benefit	175	175
4	determination	175	175
5	D. Incineration facility		
6	2. License transfer	175	175
7	E. License transfer other than	100	100
8	for landfills and incinerators	100	100
9	F. Minor revision for septage	100	100
10	facilities and solid waste	100	100
11	facilities other than landfills		
12	G. Permit by rule for one-time	100	100
12	activities	100	100
14	TABLE II		
15			
16	WASTE MANAGEMENT FEES - A	NNUAL LICENSI	E
17			
18	MAXIMUM FEES IN DO	OLLARS	
19			
20	TITLE 38 SECTION	PROCESSING	ANNUAL
21		TTT	I ICENCE EEE
21		FEE	LICENSE FEE
22	1278, Asbestos abatement		
22 23	A. Asbestos abatement contractor	\$0	\$650
22 23 24	A. Asbestos abatement contractorB. Asbestos abatement worker	\$0 0	\$650 50
22 23 24 25	A. Asbestos abatement contractorB. Asbestos abatement workerC. Asbestos consultant	\$0 0 0	\$650 50 650
22 23 24 25 26	A. Asbestos abatement contractorB. Asbestos abatement workerC. Asbestos consultantD. Asbestos analytical laboratory	\$0 0 0 0	\$650 50 650 400
22 23 24 25 26 27	A. Asbestos abatement contractorB. Asbestos abatement workerC. Asbestos consultantD. Asbestos analytical laboratoryE. Training provider	\$0 0 0 0 0 0	\$650 50 650 400 500
22 23 24 25 26 27 28	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals 	\$0 0 0 0	\$650 50 650 400
22 23 24 25 26 27 28 29	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers 	\$0 0 0 0 0 0	\$650 50 650 400 500
22 23 24 25 26 27 28 29 30	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification 	\$0 0 0 0 0 0	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 	\$0 0 0 0 0 0	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 	\$0 0 0 0 0 0	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32 33	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet 	\$0 0 0 0 0 100	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32 33 34	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 	\$0 0 0 0 0 0	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32 33 34 35	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet 	\$0 0 0 0 0 100	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet or 5,000 linear feet 	\$0 0 0 0 0 100	\$650 50 650 400 500 100
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet 	\$0 0 0 0 0 100	\$650 50 650 400 500 100 0
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet or 5,000 linear feet 	\$0 0 0 0 0 100 150	\$650 50 650 400 500 100 0
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet Project size 1,000 square feet or 5,000 linear feet, or greater 	\$0 0 0 0 0 100 150	\$650 50 650 400 500 100 0
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet Project size 1,000 square feet or 5,000 linear feet, or greater 	\$0 0 0 0 0 100 150	\$650 50 650 400 500 100 0
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet Project size 1,000 square feet or 5,000 linear feet, or greater 	\$0 0 0 0 0 100 150	\$650 50 650 400 500 100 0 0
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet Project size 1,000 square feet or 5,000 linear feet, or greater 1304, Waste management Landspreading Storage 	\$0 0 0 0 0 100 150 300	\$650 50 650 400 500 100 0 0 0 \$250
22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41	 A. Asbestos abatement contractor B. Asbestos abatement worker C. Asbestos consultant D. Asbestos analytical laboratory E. Training provider F. Other categories of asbestos professionals except asbestos abatement workers G. Notification Project size greater than 100 square feet or 100 linear feet and less than 500 square feet or 2,500 linear feet Project size 500 square feet or 2,500 linear feet, or greater, and less than 1,000 square feet or 5,000 linear feet Project size 1,000 square feet or 5,000 linear feet, or greater 1304, Waste management A. Septage disposal Landspreading 	\$0 0 0 0 100 150 300 \$550	\$650 50 650 400 500 100 0 0 0 \$250

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
.,		v	100

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

6 §589-B. Civil penalties

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

Sec. 5. 38 MRSA §590, sub-§2, as enacted by PL 1991, c. 658, §1, is amended to 13 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 contamination source and emission of air contaminants required by rule of the board and a 17 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 this section must be held in a municipality within the region where the proposed emission 22 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 apparatus designed to maintain the emission for which a license is sought at the levels 26 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 emissions, not violate or be controlled so as not to violate applicable ambient air quality 35 standards-; 36
- 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 where the source of emissions is located. 41
- Sec. 6. 38 MRSA §590, sub-§8 is enacted to read: 42

8. Hearings. All applications for an air emission license or license renewal must 1 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, commercial and residential, within a 5-mile radius of the source within 60 days of the 5 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 effectiveness of air pollution control apparatus designed to maintain the emission for which 12 a license is sought at the levels required by law; and the expense of purchasing and 13 14 installing this apparatus.

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

The term of air emission licenses is 10 <u>3</u> years, except that the term of licenses for air contaminant sources subject to when the state permitting provisions of 40 Code of Federal Regulations, Part 70 is <u>5</u> years and licenses issued pursuant to rules adopted pursuant to section <u>580-B</u>, subsection <u>4</u>, paragraph <u>D</u> have no stipulate a fixed term for licenses, in which case the term of the license is the specified fixed term. The board may establish, by rule, shorter license terms for the following source categories as it considers necessary to 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.

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SUMMARY

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

This bill also:

Creates new hearing requirements for applications for air emission licenses or
 renewals;

2. Creates new civil penalties for violation of air emission standards and requires any
 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 not40 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.