



James Libby, Ph.D.  
Senator, District 22

THE MAINE SENATE  
131st Legislature

3 State House Station  
Augusta, Maine 04333

**Testimony of Senator James D. Libby**

**Sponsor of LD 2201, An Act Regarding the Approval for the Placement of Portable Toilets**

Public Hearing, Tuesday, February 20, 2024, 1:00 p.m.

Cross Building, Room 214

Senator Nangle, Representative Stover, and esteemed members of the Joint Standing Committee on State and Local Government,

My name is Jim Libby, and I am a State Senator representing Senate District # 22, comprised of the towns of Naples, Sebago, Baldwin, and Standish in Cumberland County; Hiram and Porter in Oxford County; and Limington, Limerick, Cornish, Parsonsfield, Newfield, Acton, and Shapleigh, in the County of York.

It is my honor to bring to your attention the contents of L.D. 2201, An Act Regarding the Approval for the Placement of Portable Toilets.

To expedite this process, I have handed out to you a simple change to recent rulemaking surrounding the process of regulating portable toilets.

See the handout, and I will walk you through what my constituent and I are asking for.

Thank you.

Sincerely,

Sen. James D. Libby, Ph.D.

## An Act Regarding the Approval for the Placement of Portable Toilets

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

**Sec. 1. ~~30-A MRSA §4211, sub-§3-A~~** is enacted to read:

~~**3-A. Temporary portable toilets.** A person is not required to obtain a permit from a local plumbing inspector to place for use a temporary portable toilet. For purposes of this subsection, "temporary portable toilet" means a prefabricated toilet designed for temporary use.~~

### SUMMARY

~~This bill specifies that a permit from a local plumbing inspector is not required for the placement for use of a temporary portable toilet.~~

**Sec. 1. Chapter 241, Section (5)(I)(6)** is amended to read:

Temporary Portable Toilets are not alternative toilets, and, therefore, may not be used as permanent alternative toilets. Temporary portable toilets are allowed for use for a maximum of seven days six months. Any use of temporary portable toilets for more than seven days six months other than at construction sites, must receive written approval from the appointed LPI. If placement for use of the temporary portable toilet is intended for longer than seven days six months and associated with the Department's Health Inspection Program operation, then it must be approved by the Department's Health Inspection Program.

### SUMMARY

This bill amends the rule previously requiring written approval from a local plumbing inspector for use of portable toilets for more than 7 days and expands that period to six months.



## MAINE CDC DRINKING WATER PROGRAM

Department of Health & Human Services

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### Guidance on Subsurface Wastewater Disposal Rule (Chapter 241) Section 5(I)(6): Temporary Portable Toilets

The Subsurface Wastewater Disposal Rule includes the following section:

*Temporary Portable Toilets are not alternative toilets, and, therefore, may not be used as permanent alternative toilets. Temporary portable toilets are allowed for use for a maximum of seven days. Any use of temporary portable toilets for more than seven days, other than at construction sites, must receive written approval from the appointed LPI. If placement for use of the temporary portable toilet is intended for longer than seven days and associated with the Department's Health Inspection Program operation, then it must be approved by the Department's Health Inspection Program.*

The Rule defines temporary portable toilets as:

**Temporary portable toilet:** *A prefabricated toilet designed for temporary use, typically at social functions, work sites, outdoor gatherings, etc. No plumbing permit or site evaluation is required.*

The Rule defines an alternative toilet as:

**Alternative toilet:** *A device, other than a water closet or other fixture, located inside a structure, designed to treat or store human waste only. Examples are: pit privies and vault toilets. Portable toilets are not considered Alternative Toilets, as they are only for temporary use (see definition of temporary portable toilet).*

In this newly amended rule, the Department added the temporary portable toilet definition and restrictions in response to its determination that temporary portable toilets were being used as permanent solutions to wastewater disposal challenges at homes and businesses. This amendment was also adopted to address an issue that was brought to the Department's attention directly by Local Plumbing Inspectors who were concerned about temporary portable toilets, especially those at restaurants.

Our Maine Department of Health and Human Services Maine CDC includes the Health Inspection Program (HIP), which also shared concerns about its licensed establishments using portable toilets. Such usage may be in violation of OSHA rules, as well.

*Employers must maintain restrooms in a sanitary condition. Restrooms must provide hot and cold running water or lukewarm water, hand soap or similar cleansing agent and warm air blowers or individual hand towels (e.g., paper or cloth). Waterless hand cleaner and towels/rags are not adequate substitutes for soap and water. (<https://www.osha.gov/restrooms-sanitation>)*

Under this rule change, the Health Inspection Program can determine if a business that it licenses is using temporary portable toilets in a way that compromises public health and, as a result, deny the continued use of those temporary portable toilets. In that case, the business would then be required to install internally plumbed bathrooms in accordance with the Subsurface Wastewater Rule and the Maine Internal Plumbing Code. Local Plumbing Inspectors and the Health Inspection Program base their approvals on assurances that Maine's Internal Plumbing Code is followed, to ensure compliance with specific requirements for bathrooms at restaurants and public buildings.

Please note that Section 5(I)(6) allows temporary portable toilets to serve construction sites. The Department interprets this allowance to include other sites where OSHA requires portable restrooms, such as some agricultural work sites.

*In 1987, OSHA published a Final Rule for Field Sanitation, 29 CFR §1928.110. Among other things, it requires that all employers of 11 or more hand laborers in the field provide adequate hand washing facilities, including potable water, soap, and single-use towels.*  
<https://www.osha.gov/laws-regs/regulations/standardnumber/1928/1928.110>

For those situations like a town park, ball field, fair, or farmer's market that will be requiring bathrooms for longer than a seven-day period, the rule requires the landowner to get permission from the municipality's Local Plumbing Inspector. The town can choose to give permission in whatever form they like, and it can be as informal as an e-mail, if the town allows. There are no fees or information required to be sent to the State following the receipt of the LPI's permission.

For those situations that involve a mass gathering, such as a music festival, the Health Inspection Program's "Mass Gathering Permit" would be sufficient.

<https://www.maine.gov/dhhs/mecdc/environmental-health/el/site-files/forms/Application%20for%20Mass%20Gathering1.pdf>

For those situations that involve event camping, the Health Inspection Program's "Campground and Event Camping" License with a current signed Appendix C would be sufficient.

<https://www.maine.gov/dhhs/mecdc/environmental-health/el/site-files/forms/Campground-Event%20Camping%20Application.pdf?v2>

The Department of Health and Human Services is authorized to make rulemaking changes for the Subsurface Wastewater Disposal Rule in Maine, based on Maine law ( 22 MRS §§ 42(3), 42(3-A), and 42(3-B); 30-A MRS §§ 4211, 4215 (4), & 4452; and 22-A MRS § 205(2)).