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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON COASTAL CONVEYANCE OF PETROLEUM PRODUCTS
to
FIRST SPECIAL SESSION
of the
ONE HUNDRED AND FOURTH LEGISLATURE

JANUARY, 1970

Legislative Research Committee
Publication 104-24

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WHEREAS, Portland Harbor is presently the second largest importer of crude oil by ocean vessel on the East Coast; and

WHEREAS, additional facilities for the importation of crude oil are planned for the City of Portland which will make Portland Harbor the largest oil importing port in the world; and

WHEREAS, a large oil handling facility is planned for the port of Machiasport, for the importing of foreign crude oil; and

WHEREAS, there are increasing numbers of commercial and industrial facilities along the rivers and coast of the State which are serviced by vessels carrying oil, gas and petroleum products; and

WHEREAS, there are presently in effect no laws on the Federal, State or municipal level that effectively control the handling, movement, trans-shipment loading or unloading of oil, gas and petroleum products by ocean vessels to and from land-based facilities; now, therefore, be it

ORDERED, the House concurring, that the Legislative Research Committee study the handling of oil, gas and petroleum products by ocean vessels within territorial waters of the State of Maine, the nature of the land-based facilities attracting such cargoes, and means of controlling and safely containing the handling and movement of oil, gas and petroleum products and further, that it report to the next special session of this Legislature, or the next regular **session**, its recommendations in the form of proposed legislation for fixing duties, responsibilities and liabilities of vessels and land-based facilities handling oil, gas and petroleum products, together with means of financing the enforcement of such legislation through the imposition of an oil handling tax upon such vessels or land-based facilities, and further that it employ such professional assistance in the performance of its duties as may be required, and further that there is appropriated from the Legislative Appropriation the sum of \$25,000 for this purpose.

SP 524	In Senate Chamber	House of Representatives
Berry	Read and Passed	Read and Passed
Cumberland	July 1, 1969	July 1, 1969
	Sent down for concurrence	In concurrence



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January, 1970

To the Members of the First Special Session
 of the 104th Legislature:

The Legislative Research Committee is pleased to transmit herewith a report on the Coastal Conveyance of Petroleum pursuant to Senate Paper 524.

In light of a great concern and urgency for the preservation and best use of the territorial waters and coast of this State, this report, designated as Committee Publication 104-24, presents a means to protect such interests and the citizens of Maine from the hazards of transferring petroleum and its by-products without jeopardizing the many economic benefits accruing to the State from an expanding oil industry.

It is the hope of the Committee that the information contained in this report will be of lasting benefit to the Members of the Legislature and the people of the State of Maine.

Respectfully submitted,

A handwritten signature in cursive script that reads "William E. Dennett".

WILLIAM E. DENNETT, Chairman
 Legislative Research Committee

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The Subcommittee of the Legislative Research Committee charged with studying the "Coastal Conveyance of Petroleum Products" has inquired at great depth and with serious purpose into the matter of Senate Paper 524. Aside from public hearings and numerous executive sessions, much valuable information and assistance was obtained through excursions into the field and by consultation with interested officials representing both private and public interests. The Subcommittee also drew on the invaluable knowledge and experience of the Federal Government and other coastal states and municipalities.

Oil is not a new problem for Maine. Portland Harbor, with an annual tonnage now in excess of 26 million tons of petroleum products, is the second largest oil port on the east coast. Oil pollution, however, is a problem whose consequences have not yet been provided for. At present no comprehensive legislation exists to control commerce in oil; and Maine is faced with the probability, within the next three years, of a 300% increase in oil tonnage moving through her waters. Thus oil and its attendant disaster potential must be recognized and confronted on this ever-increasing scale.

Two principle reinforcing factors are propelling the State of Maine into this central role in oil distribution and production:

- a. The advent of the supertanker as the most economical means of transporting oil by sea;
- b. The deep coastal waters of Maine offer the only ports

on the east coast capable of handling the additional draft requirements of a new generation of supertankers destined to dominate the transoceanic transport of oil.

These factors have resulted in definite actions and firm proposals by the oil industry in respect to the Maine coast:

1. Docks and shore facilities capable of handling the largest supertankers are being planned for Little Diamond Island in Casco Bay.
2. Four refiners have stated extreme interest in building refineries in Maine.
3. One refiner has secured land options sufficient in area for two refineries.
4. Another refiner is awaiting the approval of the Interior Department.
5. The recent discovery of oil on the north slope of Alaska, and the traverse of the North West passage by the experimental tanker, Manhattan, has served to heighten consideration of Maine's deepwater ports.

Efforts, in parallel with the above developments, are being made to change the import quota system, to establish Foreign trade zones, and to probe the Continental shelf along the coast of Maine for its oil and gas potential.

Against this background the Subcommittee held public hearings in Portland, Bangor and Kittery, Maine, to learn the extent and nature of present and future oil-related activities, the problems related to oil pollution, and, in general, to

determine and evaluate the multiplicity of benefits and detriments that major expansion in oil distribution and production present. It has been the objective of the Subcommittee to discover how the State of Maine can enjoy the economic benefits of the transporting of petroleum through its waters and ports without suffering damaging consequences.

As it is apparent that oil spills cannot be eliminated, adequate measures must be taken now to ensure that when any such spill occurs it will be located, contained and cleaned up as rapidly and completely as possible. Present methods of containment and cleanup are largely ineffective; often detergents are used to disperse the oil greatly increasing the damage to the ecological structure. Hence, research into improved techniques must be actively encouraged.

The most common oil spill occurs when oil is being transferred from tankers to barges or to on-shore facilities. This type of spill is so common that it is reported infrequently. Usually, the origin of this type of spill can be traced and is the result either of negligence or of an accident.

Another frequent type of spill results from either "deballasting" or cleaning of ships' tanks at sea; both have the effect of voluntarily releasing oil into offshore waters. In spite of federal and international prohibition, these discharges frequently occur near land where the amount of oil emitted is sufficient to contaminate a significant area. Often this type of discharge is unreported, and responsibility for it is

exceedingly difficult to prove.

The land transportation of oil, including loading, unloading and storage, presents still another point of oil spill danger. It has been demonstrated that approximately 40% of all oil spills into the ocean are caused by shore installations.

The major oil spill occurs very infrequently, but the effect is so catastrophic as to have tremendous impact upon the entire economy of a given area for years to come. This is a "Torrey Canyon" or "Santa Barbara" type of disaster. A small scale illustration of this occurred in Narragansett Bay in 1960 when a spill of less than 9,000 barrels of oil from a grounded tanker completely eliminated their oyster industry.

The following are statistics collected on local oil spills during the past 3 years.

The numbers of spills reported in Maine in each of the last 3 years:

1967 23 1968 20 1969 27 (To 11/1/69)

The sources of these spills and numbers attributed thereto:

Vessels	1967	<u>19</u>	1968	<u>15</u>	1969	<u>20</u>
On shore facilities	1967	<u>1</u>	1968	<u>5</u>	1969	<u>7</u>
Unknown source (Mystery spill)	1967	<u>3</u>	1968	<u> </u>		<u> </u>

In each year, with regard to each oil spill, the number of incidents where the responsible party was ascertained:

Vessels	1967	<u>18</u>	1968	<u>14</u>	1969	<u>18</u>
On shore facilities	1967	<u>0</u>	1968	<u>5</u>		<u>6</u>

Number of spills and what they were attributed to:

	1967	1968	1969
Wrong valve opened	<u>1</u>	<u>2</u>	<u>4</u>
Faulty equipment	<u>4</u>	<u>4</u>	<u>2</u>
Overflow of tanks	<u>2</u>	<u>1</u>	<u>2</u>

	1967	1968	1969
Off-loading oil at pier	<u>0</u>	<u>0</u>	<u>0</u>
Cleaning tanks	<u>0</u>	<u>1</u>	<u>0</u>
Illegal tanker bilge washings	<u>0</u>	<u>1</u>	<u>3</u>
Structural failure of hull	<u>1</u>	<u>2</u>	<u>1</u>
Act of third party	<u>0</u>	<u>0</u>	<u>1</u>
Other	<u>4</u>	<u>4</u>	<u>4</u>
Overboard discharge valve - ballasting	<u>9</u>	<u>5</u>	<u>9</u>

Number of oil spills litigated:

Vessels	1967	<u>5</u>	1968	<u>8</u>	1969	<u>8</u>
On shore facilities	1967	<u>0</u>	1968	<u>1</u>	1969	(<u>1</u> pending)

Outcome of litigation:

Settled during litigation with penalty	<u>18</u>
Judgment for defendant	<u>0</u>
Judgment for the plaintiff	<u>0</u>
Dismissed	<u>4</u>

As each case has been settled or dismissed prior to trial, no case has actually been tried.

The diversity of possible causes, the great potential for damage and the difficulties involved in eliminating polluting substances and ensuring indemnification combine to make control of oil pollution a complex problem. In the Subcommittee's opinion the most viable solution was seen in legislation encompassing the following guidelines:

1. A single regulatory agency (the Environmental Improvement Commission is recommended) with the authority to promulgate standards, rules and regulations, enter into appropriate interstate compacts and participate in federal programs.
2. Enforcement procedures with other bodies must be instituted, in cooperation with the U. S. Coast Guard and local authorities, that will deter and detect violations,

fix liability and permit court action, if necessary.

3. Funds must be available for immediate clean-up when a spill occurs, regardless of its source or extent, and to indemnify those who are damaged.

4. Funds must be available to finance both the administration and enforcement of any regulations.

5. Funds must be available for research on problems related to oil handling, pollution and navigation which are peculiar to Maine.

6. Such funds should be derived from the industry which generates the need for regulation. Moreover, the industry which creates the risk must be absolutely liable for damages arising from its activities.

7. Third party damages are not covered adequately by Federal Legislation, International Agreement or private insurance. Hence, the proposed fund will provide insurance against third-party damage up to its financial capacity.

8. To minimize the damage and cost arising from an oil spill, the regulatory agency (Environmental Improvement Commission) should develop, in cooperation with the oil industry, contingency plans for oil spillage in order that the most effective measures may be utilized in the shortest time.

9. The State, in order to maximize the safety of its citizens, should claim jurisdiction over its coastal waters as far out to sea as is feasible.

In conclusion, based on all the evidence gathered and testimony presented, the Subcommittee with unanimous approval of the Full Legislative Research Committee clearly finds a present and future danger of oil pollution exists within and adjacent to the coastal waters of the State of Maine. Further, in the absence of existing law to prevent such pollution, to fix liability and to indemnify the damages, should such pollution occur, the following legislation is urgently necessary and respectfully submitted for your earliest possible consideration.

AN ACT Relating to Coastal Conveyance of Petroleum.

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

Sec. 1. R. S., T. 38, c. 3, sub-c. II-A, additional.

Chapter 3 of Title 38 of the Revised Statutes is amended by adding a new subchapter II-A, to read as follows:

SUBCHAPTER II-A

OIL DISCHARGE PREVENTION AND POLLUTION CONTROL

§541. Findings; purpose

The Legislature finds and declares that the highest and best uses of the seacoast of the State are as a source of public and private recreation and solace from the pressures of an industrialized society, and as a source of public use and private commerce in fishing, lobstering and gathering other marine life used and useful in food production and other commercial activities.

The Legislature further finds and declares that the preservation of these uses is a matter of the highest urgency and priority and that such uses can only be served effectively by maintaining the coastal waters, estuaries, tidal flats, beaches and public lands adjoining the seacoast in as close to a pristine condition as possible taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests with the least possible conflicts in such diverse uses.

The Legislature further finds and declares that the transfer of oil, petroleum products and their by-products between vessels and vessels and onshore facilities and vessels within the jurisdiction of the State and state waters is a hazardous undertaking; that spills, discharges and escape of oil, petroleum products and their by-products occurring as a result of procedures involved in the transfer and storage of such products pose threats of great danger and damage to the marine, estuarine and adjacent terrestrial environment of the State; to owners and users of shorefront property; to public and private recreation; to citizens of the State and other interests deriving livelihood from marine-related activities; and to the beauty of the Maine coast; that such hazards have frequently occurred in the past, are occurring now and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the State as herein set forth and that such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in transferring oil, petroleum products and their by-products and related activities.

The Legislature intends by the enactment of this legislation to exercise the police power of the State through the Environmental Improvement Commission by conferring upon said commission the exclusive power to deal with the hazards and threats of danger and damage posed by such transfers and related activities; to require the prompt containment and removal of pollution

occasioned thereby; to provide procedures whereby persons suffering damage from such occurrences may be promptly made whole; and to establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable damage claims resulting therefrom.

The Legislature further finds and declares that the preservation of the public uses referred to herein is of such grave public interest and concern to the State in promoting its general welfare, preventing disease, promoting health and providing for the public safety and that such state outweighs any burdens of absolute liability imposed by the Legislature upon those engaged in transferring oil, petroleum products and their by-products and related activities.

§542. Definitions

The following words and phrases as used in this subchapter shall, unless a different meaning is plainly required by the context, have the following meaning:

1. Board. "Board" shall mean the Board of Arbitration.
2. Commission. "Commission" shall mean the Environmental Improvement Commission.
3. Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
4. Fund. "Fund" shall mean the Maine Coastal Protection Fund.
5. Oil. "Oil, petroleum products and their by-products" means oil of any kind and in any form including, but not limited

to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity.

6. Oil terminal facility. "Oil terminal facility" means any facility of any kind and related appurtenances, located in, on or under the surface of any land or water, including submerged lands, which is used or capable of being used for the purpose of transferring, processing or transporting oil, petroleum products and their by-products, or for the purpose of storing the same, but does not include any facility used or capable of being used to store no more than 500 barrels.

7. Operate or operator. "Operate or operator" shall mean any person owning or operating an oil terminal facility whether by lease, contract or any other form of agreement.

8. Person. "Person" shall mean individual, partnership, joint venture, corporation or any group of the foregoing organized or united for a business purpose.

9. Vessel. "Vessel" includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self-propelled or otherwise and shall include barges and tugs.

§543. Pollution and corruption of waters and lands of the State prohibited

The discharge of oil, petroleum products or their by-products into or upon any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the State, or into any

river, stream, sewer, surface water drain or other waters that drain into the coastal waters of the State is prohibited.

§544. Powers and duties of the commission

The powers and duties conferred by this subchapter shall be exercised by the Environmental Improvement Commission and shall be deemed to be an essential governmental function in the exercise of the police power of the State.

1. Jurisdiction. The powers and duties of the commission under this subchapter shall extend to the areas described in section 543 above and to a distance of 12 miles from the coastline of the State.

2. Licenses. Licenses required under this subchapter shall be secured from the commission subject to such terms and conditions as are set forth in this subchapter.

§545. Operation without license prohibited

No person shall operate or cause to be operated an oil terminal facility as defined in this subchapter without a license.

1. Expiration of licenses. Licenses shall be issued on an annual basis and shall expire on December 31st annually, subject to such terms and conditions as the commission may determine are necessary to carry out the purposes of this subchapter.

2. Renewal of licenses. As a condition precedent to the issuance or renewal of a license the commission shall require satisfactory evidence that the applicant has or is in the process of implementing state and federal plans and regulations

for control of pollution related to oil, petroleum products and their by-products and the abatement thereof when a discharge occurs.

3. Exemption; marinas. Persons operating marine terminals for the exclusive use of servicing the fuel requirements of pleasure craft, fishing boats and other commercial activities where the purchaser and the consumer are the same entity and where the serviced vessel is 75 feet or less in overall length are exempt from the licensing requirements.

4. Exemption; automotive and heating oil terminals. Terminals operated exclusively for the wholesale and retail distribution of automotive and heating fuels and associated products having less than 500,000 gallons storage capacity are exempt from the licensing requirements.

§546. Regulatory powers of commission

The commission shall from time to time adopt, amend, repeal and enforce reasonable rules and regulations necessary to carry out the intent of this subchapter.

1. Procedure for adopting rules and regulations. The commission shall post notice of proposed rules and regulations by publishing an attested copy of such notice in the state paper, and such other daily papers published in the State as it believes will bring the proposals to the attention of all interested parties, at least 7 days prior to holding a public hearing.

A. Such notice shall in addition contain the time, date and place of the public hearing.

B. The commission may establish reasonable rules and regulations governing the conduct of public hearings under this subchapter including adjournments and continuations thereof.

C. Rules and regulations adopted by the commission shall become effective 15 days after final adjournment of the public hearing.

D. Rules and regulations of the commission shall be seasonably printed and made available to interested parties.

2. Emergency rules and regulations without hearing. Upon finding by the commission that an emergency exists requiring immediate rules, regulations or orders to effectively deal with such emergency, the commission may without hearing adopt such rules and regulations and issue such orders which shall have the force and effect of law, but any rules, regulations or orders issued under authority of this subsection shall be null and void 30 days thereafter unless sooner adopted in accordance with subsection 1.

3. Enforcement of rules and regulations. Rules, regulations and orders issued by the commission under this subchapter shall have the force and effect of law.

4. Extent of regulatory powers. The commission shall have the power to adopt rules and regulations including but not limited to the following matters:

A. Operating and inspection requirements for facilities, vessels, personnel and other matters relating to licensee operations under this subchapter.

B. Procedures and methods of reporting discharges and other occurrences prohibited by this subchapter.

C. Procedures, methods, means and equipment to be used by persons subject to regulations by this subchapter.

D. Procedures, methods, means and equipment to be used in the removal of oil and petroleum pollutants.

E. Development and implementation of criteria and plans to meet oil and petroleum pollution occurrences of various degrees and kinds.

F. The establishment from time to time of control districts comprising sections of the Maine coast and the establishment of rules and regulations to meet the particular requirements of each such district.

G. Requirements for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment and other equipment relating to the use and operation of terminals, facilities and refineries and the approach and departure from terminals, facilities and refineries.

H. Such other rules and regulations as the exigencies of any condition may require or such as may reasonably be necessary to carry out the intent of this subchapter.

§547. Emergency proclamation; Governor's powers

Whenever any disaster or catastrophe exists or appears imminent arising from the discharge of oil, petroleum products or their by-products, the Governor shall by proclamation declare the fact and that an emergency exists in any or all

sections of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of Governor were vacant shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the State. A copy of such proclamation shall be filed with the Secretary of State. The Governor shall have general direction and control of the Environmental Improvement Commission and shall be responsible for carrying out the purposes of this subchapter.

In performing his duties under this subchapter, the Governor is authorized and directed to cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries, and the political subdivisions thereof, and with private agencies in all matters pertaining to a disaster or catastrophe.

In performing his duties under this subchapter, the Governor is further authorized and empowered:

1. Orders, rules and regulations. To make, amend and rescind the necessary orders, rules and regulations to carry out his subchapter within the limits of the authority conferred upon him and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized emergency functions.

2. Delegation of authority. To delegate any authority vested in him under this subchapter, and to provide for the

subdelegation of any such authority;

Whenever the Governor is satisfied that an emergency no longer exists, he shall terminate the proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. Said proclamation shall be published in such newspapers of the State and posted in such places as the Governor, or the person acting in that capacity, deems appropriate.

3. Civil defense. The provisions of Title 25, chapter 61, as they shall apply to eminent domain and compensation, mutual aid, immunity, aid in emergency, right of way, enforcement and compensation shall apply to disasters or catastrophes proclaimed by the Governor under this subchapter.

§548. Removal of prohibited discharges

Any person discharging oil, petroleum products or their by-products in the manner prohibited by section 543 shall immediately undertake to remove such discharge to the commission's satisfaction. Notwithstanding the above requirement the commission may undertake the removal of such discharge and may retain agents and contractors for such purposes who shall operate under the direction of the commission.

Any unexplained discharge of oil, petroleum products or their by-products shall be removed by or under the direction of the commission. Any expenses involved in the removal of discharges, whether by the person causing the

same, the person reporting the same or the commission by
itself or through its agents or contractors shall be paid
in the first instance from the Maine Coastal Protection
Fund hereinafter provided for and any reimbursements due
said fund shall be collected in accordance with the provisions
of section 551.

§549. Personnel and equipment

The commission shall establish and maintain at such ports
within the State, and other places as it shall determine,
such employees and equipment as in its judgment may be
necessary to carry out the provisions of this subchapter.
The commission may employ, subject to the Personnel Law,
and prescribe the duties of such employees. The salaries
of such employees and the cost of such equipment shall be
paid from the Maine Coastal Protection Fund established
by this subchapter. The commission and the Maine Mining
Bureau shall periodically consult with each other relative
to procedures for the prevention of oil discharges into the
coastal waters of the State from offshore drilling production
facilities. Inspection and enforcement employees of the
commission in their line of duty under this subchapter
shall have the powers of a constable.

§550. Enforcement, penalties

Whenever it appears after investigation that there is
a violation of any rule, regulation, order or license
issued by the commission, the commission shall proceed
in accordance with the provisions of section 451, subsection 2.

Whoever violates any provisions of this subchapter or any rule, regulation or order of the commission made hereunder shall be punished by a fine of not less than \$100 nor more than \$5,000. Each day that any violation shall continue shall constitute a separate offense. The provisions of this section shall not apply to any discharge promptly reported and removed by a licensee in accordance with the rules, regulations and orders of the commission.

§551. Maine Coastal Protection Fund

The Maine Coastal Protection Fund is established to be used by the commission as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund shall initially be the sum of \$10,000,000. To this sum shall be credited all license fees, penalties and other fees and charges related to this subchapter, and to this fund shall be charged any and all expenses of the commission related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, and third party damages covered by this subchapter.

Moneys in the fund, not needed currently to meet the obligations of the commission in the exercise of its responsibilities under this subchapter shall be deposited with the Treasurer of State to the credit of the fund, and may be invested in such manner as is provided for by statute.

1. Research and development. The Legislature may allocate not more than 1% per annum of the amount then currently in the fund to be devoted to research and

development in the causes, effects and removal of pollution caused by oil, petroleum products and their by-products on the marine environment. Such allocations shall be made in accordance with the provisions of section 555.

2. Third party damages. Any person claiming to have suffered damages to real estate or personal property or loss of income directly or indirectly as a result of a discharge of oil, petroleum products or their by-products prohibited by section 543 may apply within 6 months after the occurrence of such discharge to the commission stating the amount of damage he claims to have suffered as a result of such discharge. The commission shall prescribe appropriate forms and details for such applications.

A. If the claimant, the commission and the person causing the discharge can agree as to the damage claim, the commission shall certify the amount of the claim and the name of the claimant to the Treasurer of State and the Treasurer of State shall pay the same from the Maine Coastal Petroleum Fund.

B. If the claimant, the commission and the person causing the discharge cannot agree as to the amount of the damage claim, the claim shall forthwith be transmitted for action to the Board of Arbitration as provided in this subchapter.

C. Third party damage claims shall be stated in their entirety in one application. Damages omitted from any claim at the time the award is made shall

be deemed waived.

D. Damage claims arising under the provisions of this subchapter shall be recoverable only in the manner provided under this subchapter, it being the intent of the Legislature that the remedies provided in this subchapter are exclusive.

3. Board of Arbitration. The Board of Arbitration shall consist of 3 persons, one to be chosen by the person determined in the first instance by the commission to have caused the discharge, one to be chosen by the commission to represent the public interest and one person chosen by the first 2 appointed members to serve as a neutral arbitrator. The neutral arbitrator shall serve as chairman. If the 2 arbitrators fail to agree upon, select and name the neutral arbitrator within 10 days after their appointment then the commission shall request the American Arbitration Association to utilize its procedures for the selection of the neutral arbitrator.

A. No member of the commission shall serve as an arbitrator.

B. Arbitrators shall be named by their principals within 10 days after the commission receives notice of claims arising from a discharge prohibited by section 543. If either party shall fail to select its arbitrator within the said 10 days the other party shall request the American Arbitration Association to utilize its procedures for the selection

of such arbitrator and the 2 arbitrators shall proceed to select the neutral arbitrator as provided in this section.

C. One Board of Arbitrators shall be established for and hear and determine all claims arising from or related to a common single discharge.

D. Hearings before Boards of Arbitrators shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. The board shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relative or pertinent to the issues represented to them for determination.

E. Determinations made by a majority of the board shall be final, and such determinations may be subject to review by a Justice of the Superior Court but only as to matters relating to abuse of discretion by the board.

4. Funding.

A. Annual license fees shall be determined on the basis of one cent per barrel of oil, petroleum products or their by-products transferred by the applicant during the licensing period and shall be paid monthly on the basis of records certified to the commission.

"Transferred" as used in this subsection shall include both onloading and offloading as separate items.

License fees shall be paid to the commission and upon receipt by it credited to the Maine Coastal Protection Fund.

B. Whenever the balance in the fund has reached the limit provided under this subchapter license fees shall be proportionately reduced to cover only administrative expenses and sums allocated to research and development.

5. Disbursements from fund. Moneys in the Maine Coastal Protection Fund shall be disbursed for the following purposes and no others:

A. Administrative expenses, personnel expenses and equipment costs of the commission related to the enforcement of this subchapter.

B. All costs involved in the abatement of pollution related to the discharge of oil, petroleum products and their by-products covered by the provisions of this subchapter.

C. Sums allocated to research and development in accordance with section 551.

D. Payment of third party claims awarded in accordance with section 551.

E. Payment of costs of arbitration and arbitrators.

F. Payment of costs of insurance by the State to extend or implement the benefits of the fund.

6. Reimbursements to Maine Coastal Protection Fund.

The commission shall recover to the use of the fund all sums expended therefrom, including overdrafts, for the

following purposes.

A. Costs involved in the abatement of a prohibited discharge including third party claims when the person permitting the same shall have failed to promptly report the discharge as required by rules and regulations of the commission.

B. Costs involved in the abatement of a prohibited discharge including third party claims where the total costs in a single discharge exceed \$15,000, over and above payments received under any federal program.

C. Requests for reimbursement to the fund for the above costs if not paid within 30 days of demand shall be turned over to the Attorney General for collection.

7. Waiver of reimbursement. Upon petition of the person determined to be liable for reimbursement to the fund for abatement costs under subsection 6, the commission may, after hearing, waive the right to reimbursement to the fund if the commission finds that the occurrence was the result of any of the following:

A. An act of war.

B. An act of government, either State, Federal or municipal.

C. An act of God, which shall mean an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

Upon such finding by the commission immediate credit therefor shall be entered for the party involved.

The findings of the commission shall be conclusive as it is the legislative intent that waiver provided in this subsection is a privilege conferred not a right granted.

§552. Liabilities of licensees

1. Licensee shall be liable. A licensee shall be liable for all acts and omissions of its servants and agents, and carriers destined for the licensee's facilities from the time such carrier shall enter state waters until such time as the carrier shall leave state waters.

2. State need not plead or prove negligence. Because it is the intent of this subchapter to provide the means for rapid and effective clean-up and to minimize direct damages as well as indirect damages and the proliferation of third party claims, any licensee, agent or servant including carriers destined for or leaving a licensee's facility while within state waters or suffers a prohibited discharge or other polluting condition to take place shall be liable to the State of Maine for all costs of clean-up or other damage incurred by the State. In any suit to enforce claims of the State under this section, it shall not be necessary for the State to plead or prove negligence in any form or manner on the part of the licensee, the State need only plead and prove the fact of the prohibited discharge or other polluting condition and that it occurred at facilities under the control of the licensee or was attributable to carriers

or others for whom the licensee is responsible as provided in this subchapter.

§553. Interstate Compact, authority

In accordance with subchapter II the Governor of this State is authorized and directed to execute supplementary agreements with any one or more of the states comprising the New England Interstate Water Pollution Control Commission and the United States for the purpose of implementing and carrying out the provisions, limitations, qualifications and intent of this subchapter.

§554. Reports to the Legislature

The commission shall include in its recommendations to each Legislature as required by section 361 specific recommendations relating to the operation of this subchapter.

§555. Budget approval

The commission shall submit to each Legislature its budget recommendations for disbursements from the fund in accordance with the provisions of section 551. Upon approval thereof the State Controller shall authorize expenditures therefrom as approved by the commission.

§556. Municipal ordinances; powers limited

Nothing in this subchapter shall be construed to deny any municipality, by ordinance or by law, from exercising police powers under any general or special Act; provided, however, that ordinances and bylaws in furtherance of the intent of this subchapter and promoting the general welfare, public health and public safety shall be valid unless in

direct conflict with the provisions of this subchapter or any rule, regulation or order of the commission adopted under authority of this subchapter.

§557. Construction

This subchapter, being necessary for the general welfare, the public health and the public safety of the State and its inhabitants, shall be liberally construed to effect the purposes set forth under this subchapter. No rule, regulation or order of the commission shall be stayed pending appeal under the provisions of this subchapter.

Sec. 2. R. S., T. 38, §416, amended. The 3rd paragraph of section 416 of Title 38 of the Revised Statutes, as enacted by section 4 of chapter 431 of the public laws of 1969, is repealed.