

MAINE STATE LEGISLATURE

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(Filing No. H-484)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1283, L.D. 1641, Bill,
"AN ACT to Amend the Oil Pollution Control and Discharge
Prevention Laws."

Amend the Bill in section 6 by striking out everything
after the amending clause and inserting the following:

'1. Expiration of License. Licenses shall be issued
upon application and shall be for a period of not less than
12 months to expire no later than 24 months after the date
of issuance. The board may issue a temporary license for a
shorter period of time if it finds that the applicant has
substantially complied but has failed to comply with one or
more provisions of existing regulations. Licenses shall be
issued subject to such terms and conditions as the board
may determine as necessary to carry out the purposes of this
subchapter.'

Further amend the Bill by striking out section 9 and in-
serting the following:

'Sec. 9. 38 MRSA §550, as last amended by PL 1971, c.618,
§12, is repealed and the following enacted in its place:

§550. Enforcement, penalties

Any person who causes or is responsible for a discharge in
violation of section 543 shall not be subject to any fines or

civil penalties if such person promptly reports and removes such discharge in accordance with the rules, regulations and orders of the board.'

Further amend the Bill by striking out all of section 10 and inserting the following:

'Sec. 10. 38 M.P.S.A. §551, 1st ¶, as amended, is repealed and the following enacted in its place:

The Maine Coastal Protection Fund is established to be used by the board as a nonlapsing, revolving fund for carrying out the purposes of this subchapter. The fund shall be limited to \$4,000,000 until July 1, 1978. Thereafter the fund shall be limited to \$6,000,000 and the Board of Environmental Protection shall collect fees in accordance with subsection 4. To this fund 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 board related to this subchapter, including administrative expenses, costs of removal of discharges of pollutants, and 3rd party damages covered by this subchapter.'

Further amend the Bill in section 11 by inserting in the 3rd line (same in L.D.) of paragraph A after the underlined word "known" the following:

'after the board shall have exercised reasonable efforts to ascertain the discharger'

Further amend the Bill in section 11 by inserting in the 4th line (3rd line in L.D.) of paragraph B after the underlined word "known" the following:

'after the board shall have exercised reasonable efforts to ascertain the discharger'

Further amend the Bill in section 11 by inserting at the end a new subsection to read:

'2-A. Exceptions; 3rd party damage claims. Subsection 2, 3rd party damages, shall not apply to waters of the state

classified under sections 368, 369 and 371, except those waters below head of tide until July 1, 1978.'

Further amend the Bill in section 12 by striking out in the 4th line (same in L.D.) of the 2nd paragraph the underlined words "in a timely manner" and inserting the following: 'within 10 days after receipt of notice from the board that such selection is necessary'

Further amend the Bill in section 15 by striking out in lines (3rd line in L.D.) the 4th and 5th/the underlined words "or owner of a vessel bound for a licensee"

Further amend the Bill in section 17 by striking out the 2nd paragraph and inserting the following:

'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 3rd party claims, any person, vessel, licensee, agent or servant, including carriers destined for or leaving a licensee's facility while within state waters, who permits or suffers a prohibited discharge or other polluting condition to take place shall be liable to the State of Maine for all disbursements made by it pursuant to section 551, subsection 5, paragraphs B, D and E, or other damage incurred by the State. In any suit to enforce claims of the State under this section, to establish liability,

it shall not be necessary for the State to plead or prove negligence in any form or manner on the part of the person causing the discharge or licensee responsible for the discharge. The State need only plead and prove the fact of the prohibited discharge or other polluting condition and that the discharge occurred at facilities under the control of the person causing the discharge or the licensee or was attributable to carriers or others for whom the licensee is responsible as provided in this subchapter.'

Further amend the Bill in section 18 by striking out in the 2nd sentence of the 2nd paragraph the underlined word "Supreme" and inserting the following: 'Superior'

Statement of Fact

This amendment:

1. ~~X~~nsures that a license shall not be for less than 12 months while enabling the establishment of a staggered issuing system. It also allows temporary licenses for a period shorter than 12 months if conditions warrant it and eliminates a penalty if prompt reporting and removal of unlicensed discharges takes place,
2. ~~X~~keeps the fund at the existing \$4,000,000 until July 1, 1978 and then raises the maximum limit to \$6,000,000 after July 1, 1978.

3. States that the Board must make reasonable efforts to find the person spilling oil before it settles a mystery claim;
4. Prohibits 3rd Party Damage Claims for oil spills in inland waters () until July 1, 1978. 3rd Party Damage Claims for inland waters will be permitted after July 1, 1978. This amendment does not prohibit the use of the Fund to clean-up oil spills in inland waters;
5. Allows only those who contribute to the fund to petition the Board of Environmental Protection to waive the requirement that they reimburse the fund if the spill was caused by an act of God, an act of government or an act of war; and
6. Replaces the word "fund" which is not a legal entity with the word "State."

The Supreme Court is not the proper court to seek a detention action.

Reported by the Committee on Natural Resources.

Reproduced and distributed under the direction of the Clerk of the House.
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