

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2324

S.P. 857

In Senate, March 20, 1984

Approved for introduction by the Legislative Council pursuant to Joint Rule 26.

Referred to the Committee on Energy and Natural Resources. Sent down for concurrence and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

Cosponsors: Representative Jacques of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Require an Inventory, Permitting
and Monitoring of Underground Tanks Containing
Gasoline, Oil and Toxic Materials.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is important to begin the planning and survey activities as soon as possible in order to acquire the information necessary for an effective regulatory program in 1985; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

3 **Sec. 1. Findings and purpose.** The Legislature
4 finds that significant quantities of flammable, com-
5 bustible and toxic materials are currently being
6 stored in underground storage facilities; that most
7 of these underground facilities were installed with
8 little or no regard for leak detection, loss preven-
9 tion or adequacy of containment; and that numerous
10 incidents involving leaks or unlicensed discharges
11 from such underground storage are occurring at a rate
12 so as to pose a significant threat to Maine's ground
13 water resources.

14 The Legislature further finds that protection of
15 the state's ground water resources is of a high pri-
16 ority in maintaining adequate protection of public
17 health and welfare for Maine's citizens.

18 The purpose of this Act is to initiate develop-
19 ment of a comprehensive plan and strategy designed to
20 improve the quality of underground storage facilities
21 for flammable, combustible and toxic materials; and
22 to initiate modifications to the regulatory program,
23 to begin as soon as practicable, in order to address
24 the environmental hazards of underground storage fa-
25 cilities.

26 **Sec. 2. State agency planning required.** The De-
27 partment of Environmental Protection, the Department
28 of Human Services, the Department of Public Safety
29 and the State Planning Office, in cooperation with
30 the owners and users of underground storage facili-
31 ties in Maine, shall formulate a comprehensive plan
32 to address, at a minimum, the following issues:

33 1. Standards for new aboveground and underground
34 oil storage facilities which are designed to provide
35 reasonable assurance of leak-free storage and early
36 detection should a leak occur;

37 2. Appropriate procedures, including, but not
38 limited to, daily inventory control to improve the
39 capability to detect leaks in existing underground
40 oil storage facilities at the earliest opportunity;

1 3. A strategy to identify and achieve proper
2 abandonment of all underground oil storage facilities
3 which are no longer in service;

4 4. Extension of these standards and procedures
5 to underground storage facilities for flammable, com-
6 bustible and toxic materials other than oil; and

7 5. The roles and responsibilities of each of the
8 participating state agencies.

9 The Department of Environmental Protection shall
10 be the lead agency for preparation of the plan, which
11 shall be submitted to the First Regular Session of
12 the 112th Legislature, with recommendations for any
13 necessary legislation.

14 Sec. 3. Survey of existing facilities. The De-
15 partment of Environmental Protection shall survey
16 available records to identify, insofar as possible,
17 all existing underground oil storage tanks in the
18 State and the owners of record of them, and publish
19 a summary on or before October 1, 1985.

20 Sec. 4. 22 MRSA §2641, as amended by PL 1979, c.
21 472, §4, is repealed and the following enacted in its
22 place:

23 §2641. Source of public water supply defined

24 As used in this subchapter, unless the context
25 otherwise indicates, "public water source" means any
26 natural or man-made impoundment, pond or lake or
27 ground water aquifer whose waters are transported or
28 delivered by a public water system, as defined in
29 section 2601, subsection 8. Where the intake of a
30 public water supply is on the outlet of any impound-
31 ment, pond or lake, the source of such public water
32 supply shall be considered to be the impoundment,
33 pond or lake itself.

34 Sec. 5. 22 MRSA §2646, as enacted by PL 1975, c.
35 751, §4, is repealed.

36 Sec. 6. 22 MRSA §2647, first ¶, as amended by PL
37 1977, c. 694, §366, is further amended to read:

1 Any water utility or municipality, or the depart-
2 ment, is authorized to take reasonable methods steps
3 to protect a public water source from pollution. It
4 may enter upon land within 1,000 feet of the high wa-
5 ter mark of a public water source and in the case of
6 a surface supply, within 1,000 feet of the public wa-
7 ter source and upon land used for commercial or in-
8 dustrial purposes having a facility, structure or
9 system of drainage or sewage draining or suspected of
10 flowing or seeping into a public water source and in-
11 spect the facility, structure or system of drainage
12 or sewage disposal of, including any building or
13 structure thereon. Such The power of entry and in-
14 spection shall be exercised only after the water
15 utility, municipality or department has made a rea-
16 sonable effort to obtain permission therefor from the
17 landowner. Any local or state health inspector or of-
18 ficer may order the owner of any building or struc-
19 ture thereon having a facility, structure or system
20 of drainage or sewage flowing or seeping into and
21 contaminating or suspected of contaminating the pub-
22 lic water source, which may result in risk to the
23 public health, to remedy the situation. Such The
24 order shall be in writing and state a time in which the
25 order must be complied with. These orders shall not
26 be considered an adjudicatory proceeding within the
27 meaning of the Maine Administrative Procedure Act,
28 Title 5, chapter 375.

29 Sec. 7. 25 MRSA §2441, as amended by PL 1983, c.
30 174, §2, is further amended by adding after the first
31 paragraph a new paragraph to read:

32 This section shall not apply to the storage, han-
33 dling or dispensing in underground tanks of petro-
34 leum, coal oils, burning fluids, naptha, benzines and
35 other hazardous substances, materials or waste which
36 are regulated by the Department of Environmental Pro-
37 tection under Title 38.

38 Sec. 8. 38 MRSA §349, sub-§4, ¶D-1 is enacted to
39 read:

40 D-1. Section 545-A; (Underground oil storage fa-
41 cilities);

1 Sec. 9. 38 MRSA §541, as amended by PL 1983, c.
2 483, §8, is further amended by adding after the 3rd
3 paragraph a new paragraph to read:

4 The Legislature further finds and declares that
5 significant quantities of oil are being stored in un-
6 derground storage facilities; that leaks and unli-
7 censed discharges from such facilities pose a signif-
8 icant threat to the quality of the waters of the
9 State, including the ground water resources; that
10 protection of the quality of these waters is of the
11 highest importance; and that their protection re-
12 quires proper design and installation of new and re-
13 placement underground storage facilities, and moni-
14 toring, maintenance and remedial action on the exist-
15 ing facilities.

16 Sec. 10. 38 MRSA §542, sub-§10-A is enacted to
17 read:

18 10-A. Underground oil storage facility. "Under-
19 ground oil storage facility" means any tank or tanks
20 or other container or containers, together with asso-
21 ciated piping and dispensing facilities located under
22 any land, with capacity greater than 500 gallons at
23 any single location and used, or intended to be used,
24 for the storage or supply of oil, as defined in this
25 subchapter.

26 Sec. 11. 38 MRSA §543, first ¶, as amended by PL
27 1977, c. 375, §5, is further amended to read:

28 The discharge of oil into or upon any coastal wa-
29 ters, estuaries, tidal flats, beaches and lands ad-
30 joining the seacoast of the State, or into any lake,
31 pond, river, stream, sewer, surface water drain
32 drainage, ground water or other waters of the State
33 or any public or private water supply is prohibited.

34 Sec. 12. 38 MRSA §545-A is enacted to read:

35 §545-A. Underground oil storage facilities

36 No person may install a new or replacement under-
37 ground oil storage facility without a license, or in
38 violation of any condition of a license.

1 1. Permit. The department shall issue a permit
2 for an underground oil storage facility if it finds
3 that the facility is located, designed and con-
4 structed so as to protect the health and welfare of
5 the people of the State and to protect the environ-
6 ment.

7 2. Fee. Any person who applies for a permit for
8 an underground oil storage facility shall pay a fee
9 of \$50 per tank or container to the department. No
10 permit may be issued until the fee has been paid.
11 Upon receipt by the department, the fee shall be
12 credited to the Maine Coastal Protection Fund.

13 3. Inspection and entry. The department may en-
14 ter the premise of any underground oil storage facil-
15 ity, whether existing or under construction, at rea-
16 sonable hours and enter any building with the consent
17 of the property owner, occupant or agent to inspect
18 and determine compliance with the requirements of
19 this subchapter.

20 Sec. 13. 38 MRSA §546, sub-§4, ¶¶I and J are en-
21 acted to read:

22 I. The design, installation and operating proce-
23 dure requirements for both new and replacement
24 underground oil storage facilities to prevent
25 discharges of oil prohibited by this subchapter;
26 and

27 J. The proper methods for safe abandonment or
28 removal of underground oil storage facilities
29 which have been used to hold oil.

30 Sec. 14. Allocation. The following funds are
31 allocated from the Maine Coastal Protection Fund for
32 the purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
33		
34	<u>ENVIRONMENTAL PROTECTION,</u>	
35	<u>DEPARTMENT OF</u>	
36	Positions	(1) (2)
37	Personal Services	- \$40,000
38	All Other	<u>\$10,000</u> <u>10,000</u>

1 Total \$10,000 \$50,000

2 **Emergency clause.** In view of the emergency cited
3 in the preamble, sections 1 to 7 and 14 of this Act
4 shall take effect when approved and sections 8 to 13
5 shall take effect on January 1, 1985.

6 STATEMENT OF FACT

7 The intent of this bill is to protect the ground
8 water resources of the State from leakage of under-
9 ground oil tanks and similar facilities, as set forth
10 in section 1, findings and purpose.

11 5410031484