

MAINE STATE LEGISLATURE

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L.D. 1975

(Filing No. S- 419)

STATE OF MAINE
SENATE
112TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 782, L.D. 1975, Bill, "AN ACT to Amend Certain Provisions of the Underground Oil Storage Tank Installers and Underground Oil Storage Facilities."

Amend the Bill by inserting before the enacting clause the following:

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, the Board of Underground Oil Storage Tank Installers is required by the Maine Revised Statutes, Title 32, chapter 105, to certify individuals as underground tank installers by May 1, 1986, to insure that all underground tanks are properly and safely installed within the State; and

Whereas, the Board of Underground Oil Storage Tank Installers is in immediate need of funding for expenses and for support staff in order to carry out its legislative mandate; and

Whereas, revenue from application fees will not be forthcoming in a timely fashion or in adequate levels to support the board's expenses and support staff; and

Whereas, new installation standards for underground oil storage facilities must be applicable to piping as well as the tanks; and

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1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,'

7 Further amend the Bill by striking out all of
8 sections 1, 2, 3 and 5.

9 Further amend the Bill in section 7 in subsection
10 1 in paragraph A in the 2nd and 3rd lines (page 4,
11 lines 39 and 40 in L.D.) by striking out the follow-
12 ing: "or cathodically protected steel" and inserting
13 in its place the following: 'or, cathodically pro-
14 tected steel or other noncorrosive material approved
15 by the Department of Environmental Protection'

16 Further amend the Bill in section 7 in subsection
17 1 in paragraph A in the last line (page 4, line 40 in
18 L.D.) by striking out the following: "noncorrosive
19 materials" and inserting in its place the following:
20 'fiberglass, cathodically protected steel or other
21 noncorrosive material approved by the Department of
22 Environmental Protection'

23 Further amend the Bill in section 7 in subsection
24 1 in paragraph C in subparagraph (4) in the 2nd line
25 (page 5, line 24 in L.D.) by inserting after the word
26 "located" the following: 'around the tank or around
27 the perimeter of the facility'

28 Further amend the Bill by striking out all of
29 section 8 and inserting in its place the following:

30 'Sec. 8. 38 MRSA §564, sub-§3, as enacted by PL
31 1985, c. 496, Pt. A, §14, is amended to read:

32 3. Replacement of tanks at facilities where
33 leaks have been detected. If replacement or removal
34 is required as a result of a corrosion induced leak
35 in an unprotected steel tank, the owner or operator

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1 of the facility may either replace all other tanks
2 and piping at that facility not meeting the design
3 and installation standards promulgated pursuant to
4 subsection 1 or comply with the following:

5 A. Remove all bare steel and asphalt-coated
6 steel tanks and all piping which is not con-
7 structed of noncorrosive material or is not
8 cathodically protected against corrosion at the
9 facility that are more than 20 years old;

10 B. Perform a statistical inventory analysis of
11 the entire facility and submit the results of
12 that analysis to the department. If a statisti-
13 cal inventory analysis of the entire facility had
14 been performed within 60 days prior to the re-
15 quired replacement, then the results of that
16 analysis may be submitted to the department in-
17 stead. If the results of the statistical inven-
18 tory analysis indicate evidence of a leak at the
19 facility or that the data is not sufficiently re-
20 liable to make a determination that the facility
21 is or is not leaking, the department may require
22 that all remaining tanks and piping at the facil-
23 ity be precision tested, except that precision
24 testing shall not be required where it can be
25 demonstrated that the same tanks and piping
26 passed a precision test conducted within the pre-
27 vious 6 months; and

28 C. Install a minimum of 2 ground water monitor-
29 ing wells, as deemed necessary by the department
30 to monitor the facility, unless all remaining
31 tanks and piping at the facility were installed
32 in accordance with the standards promulgated pur-
33 suant to subsection 1.

34 Results of all precision tests conducted pursuant to
35 paragraph B shall be submitted to the department, and
36 all tanks and piping found to be leaking shall be re-
37 moved pursuant to section 566, or repaired to the
38 satisfaction of the department.'

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1 Further amend the Bill by striking out all of
2 section 11 and inserting in its place the following:

3 'Sec. 11. 38 MRSA §566, 2nd ¶ from the end, as
4 enacted by PL 1985, c. 496, Pt. A, §14, is amended to
5 read:

6 Notice of an intent to abandon an underground oil
7 storage facility or tank shall be provided to the de-
8 partment and the fire department in whose jurisdic-
9 tion the underground tank is located at least 10 days
10 prior to abandonment.

11 Sec. 12. 38 MRSA §567, as enacted by PL 1985, c.
12 496, Pt. A, §14, is amended by adding at the end a
13 new paragraph to read:

14 Notwithstanding section 570, tank installers
15 shall be liable to other than the State as follows:
16 With the exception of prohibited discharges resulting
17 from an installer's negligence, the liability of cer-
18 tified installers shall be limited to damages result-
19 ing from prohibited discharges discovered within the
20 12-month period immediately following the installa-
21 tion of the underground tank or facility. To insure
22 its continued relevance, this provision shall be re-
23 viewed by June 30, 1991, by the joint standing com-
24 mittee of the Legislature having jurisdiction over
25 energy and natural resources.'

26 Further amend the Bill by renumbering the sec-
27 tions to read consecutively.

28 Further amend the Bill by inserting at the end
29 before the statement of fact the following:

30 'Emergency clause. In view of the emergency
31 cited in the preamble, this Act shall take effect
32 when approved.'

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1 STATEMENT OF FACT

2 This amendment:

3 1. Places an emergency preamble and emergency
4 clause on the bill to enable the Board of Underground
5 Oil Storage Tank Installers to have the necessary au-
6 thority to operate financially;

7 2. Strikes out those sections of the bill which
8 require that tanks be removed by a certified install-
9 er;

10 3. Enables the Department of Environmental Pro-
11 tection to maintain flexibility as new types of non-
12 corrosive materials, which may be appropriate for
13 tanks and piping, are developed;

14 4. Provides that monitoring wells shall be
15 placed around the tank or around the perimeter of the
16 facility;

17 5. Makes a technical clarification reflecting
18 the original intent of the bill;

19 6. Ensures that when an underground tank is be-
20 ing removed, notification is sent to the local fire
21 department because of the potential for fire; and

22 7. Limits the liability of certified tank in-
23 stallers to enable them to obtain insurance. It also
24 provides for a 5-year review of this specific provi-
25 sion.

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Reported by Sen. Maybury for the Committee on Audit
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