

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1440

S.P. 477

In Senate, May 6, 1987

Submitted by the Department of Environmental Protection  
pursuant to Joint Rule 24.

Reference to the Committee on Energy and Natural Resources  
suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator CAHILL of Sagadahoc.

Cosponsored by Representative MCPHERSON of Eliot,  
Representative MAYO of Thomaston, Representative RYDELL of  
Brunswick.

STATE OF MAINE

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

AN ACT to Expand the Authority of the Board  
of Underground Storage Tank  
Installers.

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

Sec. 1. 32 MRSA c. 105, first 2 lines, are re-  
pealed and the following enacted in their place:

CHAPTER 105

UNDERGROUND OIL AND HAZARDOUS SUBSTANCE  
STORAGE TANK INSTALLERS

Sec. 2. 32 MRSA §10001, as enacted by PL 1985,  
c. 496, Pt. A, §2, is amended to read:

1     §10001. Declaration of purpose

2         In order to safeguard the public health, safety  
3 and welfare, to protect the public from incompetent  
4 and unauthorized persons, to assure the highest de-  
5 gree of professional conduct on the part of under-  
6 ground oil and underground hazardous substance stor-  
7 age tank installers and to assure the availability of  
8 underground oil and underground hazardous substance  
9 storage tank installations of high quality to persons  
10 in need of those services, it is the purpose of this  
11 chapter to provide for the regulation of persons of-  
12 fering underground oil and underground hazardous  
13 substance storage tank installation services.

14         Sec. 3. 32 MRSA §10002, sub-§§3-A, 5-A and 5-B  
15 are enacted to read:

16         3-A. Hazardous substance. "Hazardous substance"  
17 means any substance defined as such in accordance  
18 with Title 38, section 1362.

19         5-A. Underground hazardous substance storage  
20 tank. "Underground hazardous substance storage tank"  
21 means any tank or container, 10% or more of which is  
22 beneath the surface of the ground, together with as-  
23 sociated piping and dispensing facilities and which  
24 is used or intended to be used for the storage or  
25 supply of hazardous substances as defined in subsec-  
26 tion 3-A. The term "underground hazardous substance  
27 storage tank" does not include tanks or containers,  
28 associated piping or dispensing facilities that are  
29 located in an underground area where they are situ-  
30 ated upon or above the surface of a floor and in such  
31 a manner that they may be readily inspected.

32         5-B. Underground hazardous substance storage  
33 tank installer. "Underground hazardous substance  
34 storage tank installer" means a person certified un-  
35 der this chapter to install and to remove underground  
36 hazardous substance storage tanks.

37         Sec. 4. 32 MRSA §10002, sub-§7, as enacted by PL  
38 1985, c. 496, Pt. A, §2, is amended to read:

39         7. Underground oil storage tank installer. "Un-  
40 derground oil storage tank installer" means a person

1 certified under this chapter to install underground  
2 oil storage tanks and to remove underground oil stor-  
3 age tanks.

4 Sec. 5. 32 MRSA §10003, as enacted by PL 1985,  
5 c. 496, Pt. A, §2, is amended to read:

6 §10003. Board of Underground Storage Tank Install-  
7 ers; establishment; compensation

8 1. Establishment and membership. There is es-  
9 tablished within the Department of Environmental Pro-  
10 tection, ~~a~~ the Board of Underground ~~Oil~~ Storage Tank  
11 Installers. The board shall consist of 7 members ap-  
12 pointed by the Governor as follows: One from the De-  
13 partment of Environmental Protection; one from either  
14 the Maine Oil Dealer's Association, ~~the Pine-Tree-Gas~~  
15 ~~Retailers-Association~~ or the Maine Petroleum Associa-  
16 tion; one underground oil or underground hazardous  
17 substance storage tank installer; one from either the  
18 Oil and Solid Fuel Board, the Plumber's Examining  
19 Board or the State Board of Certification for  
20 Geologists and Soil Scientists; ~~one from the Board of~~  
21 ~~Environmental Protection~~ one from the Maine Chamber  
22 of Commerce and Industry; and 2 public members.

23 2. Terms of appointment. The Governor, within  
24 60 days following the effective date of this chapter,  
25 shall appoint 3 board members for ~~a-term~~ terms of one  
26 year, 3 for ~~a-term~~ terms of 2 years and one for a  
27 term of 3 years. The Governor shall appoint by Octo-  
28 ber 1, 1987, a board member from the Maine Chamber of  
29 Commerce and Industry for an initial term of one  
30 year. Appointments made thereafter shall be for  
31 3-year terms, but no person may be appointed to serve  
32 more than 2 consecutive terms at any one time. Terms  
33 shall begin on the first day of the calendar year and  
34 end on the last day of the calendar year or until  
35 successors are appointed, except for the first ap-  
36 pointed members who shall serve through the last cal-  
37 endar days of the year in which they are appointed,  
38 before commencing the terms prescribed by this sec-  
39 tion.

40 Any member of the board may be removed from office  
41 for cause by the Governor. A member may not serve  
42 more than 2 full successive terms provided that, for

1 this purpose only, a period actually served which ex-  
2 ceeds 1/2 of the 3-year term shall be deemed a full  
3 term.

4 3. Meetings. The board shall meet during the  
5 first month of each calendar year to select a chair-  
6 man and for other purposes. At least one additional  
7 meeting shall be held before the end of each calendar  
8 year. Other meetings may be convened at the call of  
9 the chairman or the written request of any 2 3 board  
10 members. A majority of the members of the board  
11 shall constitute a quorum for all purposes.

12 4. Compensation. Members of the board shall re-  
13 ceive no compensation for their services, but are en-  
14 titled to expenses on the same basis as provided for  
15 state employees.

16 Sec. 6. 32 MRSA §10004, sub-§2, as enacted by PL  
17 1985, c. 496, Pt. A, §2, is amended to read:

18 2. Rules. The board may adopt, in accordance  
19 with the Maine Administrative Procedure Act, Title 5,  
20 chapter 375, rules relating to professional conduct  
21 to carry out the policy of this chapter, including,  
22 but not limited to, rules relating to professional  
23 regulation and to the establishment of ethical stan-  
24 dards of practice for persons certified to practice  
25 underground oil or underground hazardous substance  
26 storage tank installation and removal.

27 Sec. 7. 32 MRSA §10005, as amended by PL 1985,  
28 c. 785, Pt. B, §7, is further amended to read:

29 §10005. Board of Underground Storage Tank Install-  
30 ers; administrative provisions

31 1. Officers. The board shall appoint a secre-  
32 tary and may appoint other officers as it deems  
33 determines necessary.

34 2. Employees. With the advice of the board, the  
35 commissioner may appoint, subject to the Civil Ser-  
36 vice Law, such employees as may be necessary to carry  
37 out this chapter. Any person so employed shall be  
38 located in the department and under the administra-  
39 tive and supervisory direction of the commissioner.

1           3. Budget. The board shall submit to the com-  
2 missioner its budgetary requirements in the same man-  
3 ner as is provided in Title 5, section 1665.

4           Sec. 8. 32 MRSA §10006, sub-§1, as enacted by PL  
5 1985, c. 496, Pt. A, §2, is amended to read:

6           1. Certification required. No person may prac-  
7 tice, or hold himself out as authorized to practice,  
8 as an underground oil or underground hazardous  
9 substance storage tank installer in this State or use  
10 the words "underground oil storage tank installer" or  
11 "underground hazardous substance storage tank in-  
12 staller" or other words or letters to indicate that  
13 the person using the words or letters is a certified  
14 underground oil or underground hazardous substance  
15 storage tank installer practitioner unless he is cer-  
16 tified in accordance with this chapter.

17           Sec. 9. 32 MRSA §10008, as enacted by PL 1985,  
18 c. 496, Pt. A, §2, is amended to read:

19           §10008. Reciprocity

20           A person who is a resident of the State and has  
21 been certified in another state as an underground oil  
22 or underground hazardous substance storage tank in-  
23 staller may, upon payment of a fee as established un-  
24 der section 10012, obtain a certification as an un-  
25 derground oil or underground hazardous substance  
26 storage tank installer, provided that a person sub-  
27 mits satisfactory evidence of certification as an un-  
28 derground oil or underground hazardous substance  
29 storage tank installer in another state under quali-  
30 fications equivalent to those specified in this chap-  
31 ter.

32           Sec. 10. 32 MRSA §10009, as amended by PL 1985,  
33 c. 763, Pt. A, §95, is repealed and the following  
34 enacted in its place:

35           §10009. Certification requirements for persons work-  
36 ing as underground hazardous substance stor-  
37 age tank installers

38           1. Certification requirements for persons now  
39 working as underground hazardous substance storage

1 tank installers. A certificate may be granted to  
2 those persons who have been employed as underground  
3 hazardous substance tank installers for at least 2  
4 years prior to October 1, 1987, by one of the follow-  
5 ing means:

6 A. If the person has passed an oral test based  
7 on Title 38, section 1364, subsection 2, and any  
8 rules promulgated under that subsection by the  
9 Board of Environmental Protection concerning un-  
10 derground hazardous substances storage facility  
11 installations;

12 B. If the person has passed a written test based  
13 on Title 38, section 1364, subsection 2, and any  
14 rules promulgated under that subsection by the  
15 Board of Environmental Protection concerning un-  
16 derground hazardous substance storage facility  
17 installations; or

18 C. If the person has completed successful in-  
19 stallation of an underground hazardous substance  
20 storage facility under the supervision of a des-  
21 ignated representative of the Department of Envi-  
22 ronmental Protection.

23 This section does not apply after April 1, 1989.

24 Sec. 11. 32 MRSa §10010, first ¶, as enacted by  
25 PL 1985, c. 496, Pt. A, §2, is amended to read:

26 An applicant applying for certification as an un-  
27 derground oil storage tank installer or an under-  
28 ground hazardous substance tank installer shall file  
29 a written application provided by the board, showing  
30 to the satisfaction of the board that he meets the  
31 following requirements.

32 Sec. 12. 32 MRSa §10010, sub-§3, as enacted by  
33 PL 1985, c. 496, Pt. A, §2, is amended to read:

34 3. Education and examination for certification  
35 of new underground oil storage tank installers. An  
36 applicant shall must meet the following requirements:

37 A. He shall have passed a written or oral exami-  
38 nation based on Title 38, chapter 3, subchapter

1 II-B, and any rules promulgated thereunder by the  
2 Board of Environmental Protection concerning the  
3 installation of underground oil storage tanks;  
4 and

5 B. He shall have completed successful installa-  
6 tion of an underground oil storage tank under the  
7 supervision of a designated representative of the  
8 Department of Environmental Protection.

9 Sec. 13. 32 MRSA §10010, sub-§4 is enacted to  
10 read:

11 4. Education and examination for certification  
12 of new underground hazardous substance storage tank  
13 installers. An applicant must meet the following re-  
14 quirements:

15 A. He shall have passed a written or oral exami-  
16 nation based on Title 38, section 1364, subsec-  
17 tion 2, and any rules promulgated under that sub-  
18 section by the Board of Environmental Protection  
19 concerning underground hazardous substance stor-  
20 age tank installation; and

21 B. He shall have completed successful installa-  
22 tion of an underground hazardous substance stor-  
23 age tank under the supervision of a designated  
24 representative of the Department of Environmental  
25 Protection.

26 Sec. 14. 32 MRSA §10010-A, first ¶, as enacted  
27 by PL 1985, c. 763, Pt. A, §96, is amended to read:

28 Pending To provide for the completion of the on-  
29 site installation of an underground oil or under-  
30 ground hazardous substance storage tank under the su-  
31 pervision of a designated representative of the De-  
32 partment of Environmental Protection, the Board of  
33 Underground Oil Storage Tank Installers may issue a  
34 provisional certificate valid for no more than 6  
35 months after issuance to tank installers with--less  
36 than--2--years--experience who have successfully com-  
37 pleted the written examination requirements pursuant  
38 to Title-32, section 10010.



1           Sec. 15. 32 MRSA §10011, sub-§§1 and 2, as en-  
2       acted by PL 1985, c. 496, Pt. A, §2, are amended to  
3       read:

4           1. Requirement fees. Only a person satisfying  
5       the requirements of section 10010, subsections 1 and  
6       2, may apply for examination in such a manner as the  
7       board prescribes. The application shall be accompa-  
8       nied by the nonrefundable fee prescribed by section  
9       10012. A person who fails either part of the  
10      applicable examination specified in section 10010,  
11      subsection 3 or 4, may apply for reexamination upon  
12      payment of the prescribed fee.

13          2. Content. The written examination shall test  
14      the applicant's knowledge of the skills and knowledge  
15      relating to storage tank installation and such other  
16      subjects as the board requires to determine the ap-  
17      plicant's fitness to practice. The board shall ap-  
18      prove an examination for underground oil storage tank  
19      installers and underground hazardous substance stor-  
20      age tank installers and establish standards for an  
21      acceptable performance.

22          Sec. 16. 32 MRSA §10012, sub-§2, as amended by  
23      PL 1985, c. 626, §1, is further amended to read:

24          2. Disposal of fees. All fees received by the  
25      board related to underground oil storage tank  
26      installers shall be paid to the Treasurer of State to  
27      be deposited into the Ground Water Oil Clean-up Fund  
28      and used for the purpose of carrying out all applica-  
29      ble provisions of this chapter. All fees received by  
30      the board related to underground hazardous substance  
31      storage tank installers shall be paid to the Treasur-  
32      er of State to be deposited into the Hazardous Waste  
33      Fund and used for the purpose of carrying out all ap-  
34      plicable provisions of this chapter. Any balance of  
35      fees in the respective accounts shall not lapse but  
36      shall be carried forward as a continuing account to  
37      be expended for the same purposes in the following  
38      fiscal years.

39          Sec. 17. 32 MRSA §10014, sub-§2, as enacted by  
40      PL 1985, c. 496, Pt. A, §2, is amended to read:

1       2. Inactive status. Upon request, the board  
2 shall grant inactive status to a certified person who  
3 does not practice or present himself as an under-  
4 ground oil tank installer or an underground hazardous  
5 substance storage tank installer and maintains any  
6 continuing competency requirements established by the  
7 board.

8           **Sec. 18. 32 MRSA §10015, sub-§2, ¶B, as enacted**  
9           **by PL 1985, c. 496, Pt. A, §2, is amended to read:**

10 B. Unprofessional conduct, including any gross  
11 negligence, incompetency or misconduct in the  
12 certified person's performance of the work of un-  
13 derground oil or underground hazardous substance  
14 storage tank installation or removal, or viola-  
15 tion of any standard of professional behavior  
16 which has been established by the board;

17 STATEMENT OF FACT

18       This bill expands the authority of the Board of  
19       Underground Storage Tank Installers to regulate the  
20       installation and removal of underground hazardous  
21       substance storage tanks. The bill also expands the  
22       board's authority to regulate the removal of under-  
23       ground oil storage tanks.

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