

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 667, L.D. 909, Bill, "An Act to Amend the Underground Oil and Hazardous Substance Storage Tank Installer Laws"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, there are over 8,000 underground storage tanks that must be removed by October 1989; and

Whereas, a significant portion of these tanks store gasoline; and

Whereas, certified underground storage tank installers and underground gasoline tank removers are needed to help private citizens meet removal requirements; 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,

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

Sec. 1. 32 MRSA §10002, sub-§§3-B, 5-C and 5-D are enacted to read:

3-B. Gasoline. "Gasoline" means a volatile, highly flammable liquid with a flashpoint of less than 100° Fahrenheit obtained from the fractional distillation of petroleum.

1 5-C. Underground gasoline storage tank. "Underground
2 gasoline storage tank" means a tank or container, 10% or more of
3 which is underground, together with associated piping and
4 dispensing facilities and which is used, or intended to be used,
5 for the storage or supply of gasoline. The term does not include
6 tanks or containers that are situated upon or above the surface
7 of a floor and in such a manner that they may be readily
8 inspected.

9
10 5-D. Underground gasoline storage tank remover.
11 "Underground gasoline storage tank remover" means a person
12 certified under this chapter to remove underground gasoline
13 storage tanks.

14 Sec. 2. 32 MRSA §10004, sub-§2, as amended by PL 1987, c. 410,
15 §5, is further amended to read:

16
17 2. Rules. The board may adopt, in accordance with the
18 Maine Administrative Procedure Act, Title 5, chapter 375, rules
19 relating to professional conduct to carry out the policy of this
20 chapter, including, but not limited to, rules relating to
21 professional regulation and to the establishment of ethical
22 standards of practice for persons certified to practice
23 underground oil or underground hazardous substance storage tank
24 installation and removal and underground gasoline storage tank
25 removal.

26
27 Sec. 3. 32 MRSA §10006, sub-§1, as amended by PL 1987, c. 410,
28 §7, is further amended to read:

29
30 1. Certification required. No person may practice, or hold
31 ~~himself-out-as-authorized~~ profess to practice, as an underground
32 oil or underground hazardous substance storage tank installer or
33 underground gasoline storage tank remover in this State or use
34 the words "underground oil storage tank installer"~~-or~~ installer,"
35 "underground hazardous substance storage tank installer"~~-~~
36 installer," "underground gasoline storage tank remover" or other
37 words or letters to indicate that the person using the words or
38 letters is a certified underground oil or underground hazardous
39 substance storage tank installer practitioner or underground
40 gasoline storage tank remover practitioner unless he that person
41 is certified in accordance with this chapter.

42 Sec. 4. 32 MRSA §10006, sub-§§3 and 4 are enacted to read:

43
44 3. Proper underground oil storage tank installer
45 certification class required. No person may install or advertise
46 to install underground oil storage tanks unless the person has
47 the appropriate class of certification in accordance with this
48 subsection.

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1 A. A Class 1 underground oil storage tank installer may
3 install or remove any type of underground oil storage tank,
5 with the exception of field-constructed underground oil
7 storage tanks.

9 B. A Class 2 underground oil storage tank installer may
11 install or remove any type of underground oil storage tank,
13 with the exception of field-constructed, heavy oil storage
15 or impressed-current cathodically-protected tanks.

17 C. A Class 3 underground storage tank installer may only
19 install or remove underground oil storage tanks for the
21 storage of #2 heating oil. Class 3 installers are not
23 certified to install or remove field-constructed, heavy oil
25 storage or impressed-current cathodically-protected tanks.

27 D. Currently certified underground oil storage tank
29 installers shall be certified as Class 2 installers until
31 they demonstrate to the satisfaction of the board one of the
33 following: training and experience commensurate with a
35 Class 1 certification; completion of additional
37 board-approved training in the areas of cathodic protection
39 and heavy oil storage tank installations; or passage of the
41 Class 1 written final examination.

43 E. Certified underground oil storage tank installers may
45 upgrade their certification by demonstrating to the
47 satisfaction of the board training and experience comparable
49 to completion of the appropriate apprenticeship requirements
51 and passage of the written final examination in that class.

53 4. Proper underground gasoline storage tank remover
55 certification class required. No person may remove or advertise
57 to remove an underground gasoline storage tank unless the person
59 is certified in accordance with this chapter.

61 Sec. 5. 32 MRSA §10009, as amended by PL 1987, c. 410, §9, is
63 repealed.

65 Sec. 6. 32 MRSA §10010, first ¶, as amended by PL 1987, c. 410,
67 §10, is further amended to read:

69 An applicant applying for certification as an underground
71 oil storage tank installer ~~or~~ an underground hazardous
73 substance tank installer or an underground gasoline storage tank
75 remover shall file a written application provided by the board,
77 showing to the satisfaction of the board that he that person
79 meets the following requirements.

81 Sec. 7. 32 MRSA §10010, sub-§3, ¶A, as amended by PL 1987, c.
83 410, §11, is repealed and the following enacted in its place:

1 A. Passage of an initial written or oral examination based
3 on laws outlined in and any rules promulgated under Title
5 38, chapter 3, subchapter II-B, by the Board of
 Environmental Protection concerning the installation and
 removal of underground oil storage tanks;

7 Sec. 8. 32 MRSA §10010, sub-§3, ¶B, as enacted by PL 1985, c.
9 496, Pt. A, §2, is repealed and the following enacted in its
 place:

11 B. Successful completion of an apprenticeship in accordance
13 with this section and under the direct supervision of an
15 underground oil storage tank installer certified in the
 class for which the applicant is applying; and

17 Sec. 9. 32 MRSA §10010, sub-§3, ¶C is enacted to read:

19 C. Passage of a final written or oral examination specific
21 to the class for which the applicant is applying that is
23 based on the laws outlined in and any rules promulgated
 under Title 38, chapter 3, subchapter II-B, by the Board of
 Environmental Protection concerning the installation and
 removal of underground oil storage tanks.

25 Sec. 10. 32 MRSA §10010, sub-§§3-A and 5 are enacted to read:

27 3-A. Apprenticeship requirements for new underground oil
29 storage tank installers. An applicant for certification as an
31 underground oil storage tank installer must meet the following
 apprenticeship requirements before being certified.

33 A. To be eligible to take the final examination for a Class
35 1 certification, the applicant must provide documentation of
37 completion of at least 12 underground oil storage tank
39 installations, of which 6 shall be marketing and
 distribution systems or other motor fuel storage tanks and 6
 shall be heavy oil tank installations. At least 2 of these
 qualifying installations shall be impressed-current tanks.

41 B. To be eligible to take the final examination for a Class
43 2 certification, the applicant must provide documentation of
 completion of 6 marketing and distribution or other motor
 fuel storage tank installations.

45 C. To be eligible to take the final examination for a Class
47 3 certification, the applicant must provide documentation of
 completion of 6 heating oil installations.

49 D. The board shall adopt rules to administer this section
51 and to provide a variance to the apprenticeship requirements
 of this subsection if the applicant can satisfactorily

1 demonstrate training and experience comparable to completion
2 of an apprenticeship.

3 5. Education and examination for certification of
4 underground gasoline storage tank removers. An applicant for
5 certification as an underground gasoline storage tank remover
6 must meet the following requirements before being certified:

7 A. Passage of initial written or oral examination based on
8 Title 38, chapter 3, subchapter II-B, and any rules
9 promulgated by the Board of Environmental Protection
10 concerning the removal of underground gasoline storage
11 tanks; and

12 B. Completion of a successful removal of an underground
13 gasoline storage tank under the supervision of a designated
14 representative of the Department of Environmental Protection.

15 Sec. 11. 32 MRSA §10010-A, as amended by PL 1987, c. 410,
16 §13, is further amended to read:

17 §10010-A. Certification requirements regarding the on-site
18 installation of an underground hazardous substance
19 storage tank under the supervision of a designated
20 representative of the Department of Environmental
21 Protection

22 To provide for the completion of the on-site installation of
23 an underground ~~oil--or--underground~~ hazardous substance storage
24 tank under the supervision of a designated representative of the
25 Department of Environmental Protection, the Board of Underground
26 Storage Tank Installers may issue a provisional certificate valid
27 for no more than 6 months after issuance to tank installers who
28 have successfully completed the examination requirements pursuant
29 to section 10010.

30 When the board determines that reasonable extenuating
31 circumstances prevent the administration or completion of an
32 on-site installation within the 6-month provisional certification
33 period, it may grant one renewal of a provisional certificate for
34 a specific limited time not to exceed 3 months.

35 The board shall establish a written set of criteria to be
36 used as a checklist by the representative of the Department of
37 Environmental Protection designated to supervise the on-site
38 installation or removal to ensure that each installation or
39 removal is evaluated consistently and equitably.

40 Sec. 12. 32 MRSA §10011, sub-§2, as amended by PL 1987, c.
41 410, §14, is further amended to read:

42

1 2. Content. The written examination shall test the
2 applicant's knowledge of the skills and knowledge relating to
3 storage tank installation or removal and such other subjects as
4 the board requires to determine the applicant's fitness to
5 practice. The board shall approve ~~an examination~~ examinations
6 required by this chapter for underground oil storage tank
7 installers and underground hazardous substance storage tank
8 installers and underground gasoline storage tank removers and
9 establish standards for an acceptable performance.

11 **Sec. 13. 32 MRSA §10012, sub-§2, as amended by PL 1987, c.**
12 **410, §15, is further amended to read:**

13 2. Disposal of fees. All fees received by the board
14 related to underground oil storage tank installers or underground
15 gasoline storage tank removers shall be paid to the Treasurer of
16 State to be deposited into the Ground Water Oil Clean-up Fund and
17 used for the purpose of carrying out all applicable provisions of
18 this chapter. All fees received by the board related to
19 underground hazardous substance storage tank installers shall be
20 paid to the Treasurer of State to be deposited into the Hazardous
21 Waste Fund and used for the purpose of carrying out all
22 applicable provisions of this chapter. Any balance of fees in the
23 respective accounts shall not lapse but shall be carried forward
24 as a continuing account to be expended for the same purposes in
25 the following fiscal years.

27 **Sec. 14. 32 MRSA §10014, sub-§2, as amended by PL 1987, c.**
28 **410, §16, is further amended to read:**

31 2. Inactive status. Upon request, the board shall grant
32 inactive status to ~~--a~~ certified person persons who ~~does do~~ not
33 practice or present ~~himself themselves~~ as an underground oil tank
34 ~~installer--or--an~~ installers, underground hazardous substance
35 storage tank installer installers or underground gasoline storage
36 tank removers and maintains maintain any continuing competency
37 requirements established by the board.

39 **Sec. 15. 32 MRSA §10015, sub-§2, as amended by PL 1987, c.**
40 **410, §17, is further amended to read:**

41 2. Disciplinary action; grounds. The board may modify,
42 reclassify, suspend or revoke a certificate pursuant to Title 5,
43 section 10004. The board may refuse to issue or renew a
44 certificate or the Administrative Court may suspend, revoke or
45 refuse to renew a certificate of any certified person. The
46 following shall be grounds for an action to modify, reclassify,
47 suspend, revoke or refuse to issue or renew a certificate:

49 A. The practice of any fraud or deceit in obtaining a
50 certificate under this chapter or in connection with
51 services rendered within the scope of the certificate issued;

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B. Unprofessional conduct, including any gross negligence, incompetency or misconduct in the certified person's performance of the work of underground oil storage tank installation or removal, underground hazardous substance storage tank installation or removal, or underground gasoline storage tank removal or violation of any standard of professional behavior which has been established by the board;

C. Subject to the limitation of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the certified person is certified or conviction of any crime for which imprisonment for one year or more may be imposed; or

D. Any violation of this chapter or any rule adopted by the board.

Sec. 16. 38 MRSA §562, sub-§§6-A and 12-A are enacted to read:

6-A. Gasoline. "Gasoline" means a volatile, highly flammable liquid with a flashpoint of less than 100° Fahrenheit obtained from the fractional distillation of petroleum.

12-A. Underground gasoline storage tank. "Underground gasoline storage tank" means a single tank or container, 10% or more of which is underground, together with associated piping and dispensing facilities and which is used, or intended to be used, for the storage or supply of gasoline. The term does not include multiple tanks or containers or tanks or containers that are situated upon or above the surface of a floor and in such a manner that they may be readily inspected.

Sec. 17. 38 MRSA §564, sub-§1, ¶B, as amended by PL 1987, c. 402, Pt. A, §200, is further amended to read:

B. All new and replacement facilities shall be installed by an underground oil storage tank installer who has been properly certified pursuant to Title 32, chapter 104-A, and shall be registered with the department prior to installation pursuant to section 563. Underground gasoline storage tanks may be removed by an underground gasoline storage tank remover who has been properly certified pursuant to Title 32, chapter 104-A.

Sec. 18. 38 MRSA §565, sub-§1, ¶B, as amended by PL 1987, c. 402, Pt. A, §201, is further amended to read:

1 B. All new and replacement facilities shall be installed by
2 an underground oil storage tank installer who has been
3 properly certified pursuant to Title 32, chapter 104-A, and
4 shall be registered with the department prior to
5 installation pursuant to section 563. Underground gasoline
6 storage tanks may be removed by an underground gasoline
7 storage tank remover who has been properly certified
8 pursuant to Title 32, chapter 104-A.

9
10 Sec. 19. 38 MRSA §566-A, sub-§5, enacted by PL 1987, c. 491,
11 §14, is amended as to read:

12
13 5. Qualified personnel. All abandoned facilities and tanks
14 used for the storage of Class 1 liquids that require removal
15 shall be removed under the direction of an underground oil
16 storage tank installer certified pursuant to Title 32, chapter
17 104-A, or of professional firefighting personnel, except for
18 underground gasoline storage tanks removed pursuant to subsection
19 6. The certified installer need not be present at the site at the
20 time of the tank's or facility's removal.

21 Sec. 20. 38 MRSA §566-A, sub-§6 is enacted to read:

22
23 6. Underground gasoline storage tanks. Underground
24 gasoline storage tanks may be removed under the direction of an
25 underground gasoline storage tank remover certified pursuant to
26 Title 32, chapter 104-A, if the following conditions are met:

27
28 A. All underground gasoline storage tanks at a site are
29 removed at the same time; and

30
31 B. No underground gasoline storage tanks are installed at
32 the site for at least 6 months following that removal.

33
34 Sec. 21. 38 MRSA §567, as amended by PL 1987, c. 402, Pt. A,
35 §202, further is amended to read:

36
37 **§567. Certification of underground tank installers**

38
39 No person may install an underground oil storage facility or
40 tank after May 1, 1986, without first having been certified by
41 the Board of Underground Oil Storage Tank Installers, pursuant to
42 Title 32, chapter 104-A. ~~Prior to December 31, 1986, when the
43 board determines that reasonable extenuating circumstances
44 prevent the administration or completion of a certification test
45 by May 1, 1986, Underground gasoline storage tanks may be removed
46 by underground gasoline storage tank removers certified by the
47 Board of Underground Oil Storage Tank Installers, pursuant to
48 Title 32, sections 10009 and 10010, it may issue a provisional
49 certificate valid until December 31, 1986 chapter 104-A.~~

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