

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

2

4

6

8

10

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

12

COMMITTEE AMENDMENT "A" to H.P. 1691, L.D. 2341, Bill, "An
Act to Enhance the Ability of the State to Respond to Oil Spills"

14

16

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

18

20

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

22

24

Whereas, Maine's ability to respond to a catastrophic oil
spill needs to be reviewed; and

26

28

Whereas, this Act sets up a mechanism to accomplish that
review; and

30

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,

32

34

36

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

38

Sec. 1. 38 MRSA §546, sub-§4, ¶E, as amended by PL 1989, c.
546, §9, is further amended to read:

40

42

E. Development and implementation of criteria and plans to
meet oil and petroleum pollution occurrences of various
degrees and kinds, including periodic, unannounced drills to
determine the adequacy of response plans and the
preparedness of the response teams;

44

2 **Sec. 2. 38 MRSA §546-A** is enacted to read:

4 **§546-A. Clean-up plans; review and revision**

6 The commissioner shall annually review and make
7 recommendations to revise plans developed under section 546,
8 subsection 4, paragraph E.

10 **Sec. 3. 38 MRSA §550**, as repealed and replaced by PL 1977, c.
11 375, §9, is amended to read:

12 **§550. Enforcement; penalties**

14 Any person who causes or is responsible for a discharge in
15 violation of section 543 shall ~~is~~ not be subject to any fines or
16 civil penalties if such ~~that~~ person promptly reports and removes
17 such discharge in accordance with the rules, regulations and
18 orders of the board.;

19 1. **Report and remove.** Reports within 2 hours and promptly
20 removes the discharge in accordance with the rules and orders of
21 the board or commissioner; and

22 2. **Reimburse.** Reimburses the department for any
23 disbursement made from the fund in connection with the discharge
24 pursuant to section 551, subsection 5, paragraph B within 30 days
25 of demand.

26 **Sec. 4. 38 MRSA §551, sub-§4, ¶A**, as amended by PL 1989, c.
27 500, §2, is further amended to read:

28 A. License fees shall ~~be~~ are determined on the basis of 3¢
29 4¢ per barrel of unrefined crude oil and all other refined
30 oil, petroleum products and their by-products, including #6
31 fuel oil, #2 fuel oil, kerosene, gasoline, jet fuel and
32 diesel fuel, transferred by the licensee during the
33 licensing period and shall ~~must~~ be paid monthly by the
34 licensee on the basis of records certified to the department
35 commissioner. License fees shall ~~must~~ be paid to the
36 department and upon receipt by it credited to the Maine
37 Coastal and Inland Surface Oil Clean-up Fund.

38 **Sec. 5. 38 MRSA §551, sub-§4, ¶D**, as amended by PL 1989, c.
39 500, §3, is further amended to read:

40 D. Any person who is required to register with the
41 department commissioner pursuant to section 545-B and who
42 first transports oil in Maine shall pay fees, ~~which shall be~~
43 that are determined on the basis of 3¢- 4¢ per barrel for
44 all refined oil, including #6 fuel oil, #2 fuel oil,
45 kerosene, gasoline, jet fuel, diesel fuel and liquid asphalt
46

2 transported by the registrant during the period of
3 registration. Fees shall must be paid monthly by the
4 registrant on the basis of records certified to the
5 department commissioner. Fees shall must be paid to the
6 department and upon receipt by it credited to the Maine
7 Coastal and Inland Surface Oil Clean-up Fund. The
8 registrant shall make available to the department
9 commissioner and its the commissioner's authorized
10 representatives all documents relating to the oil
11 transported by the registrant during the period of
12 registration. This paragraph shall does not apply to waste
13 oil ~~which--is~~ transported into Maine in any motor vehicle
14 which that has a valid license issued by the department for
15 the transportation of waste oil pursuant to section 1319-O
16 and ~~which--is~~ subject to fees established under section
17 1319-I.

18 **Sec. 6. 38 MRSA §551, sub-§5, ¶G**, as amended by PL 1985, c.
19 496, Pt. A, §13, is further amended to read:

20 G. Payments to Treasurer of State pursuant to subsection 4,
21 paragraph B; and

22 **Sec. 7. 38 MRSA §551, sub-§5, ¶H**, as enacted by PL 1981, c.
23 356, §1, is amended to read:

24 H. Sums, up to \$50,000 each year, which have been allocated
25 by the Legislature on a contingency basis in accordance with
26 section 555 for payment of costs for studies of the
27 environmental impacts of discharges prohibited by section
28 543 which that may have adverse economic effects and which
29 occur subsequent to such an allocation, when such those
30 studies are deemed determined necessary by the
31 commissioner; and

32 **Sec. 8. 38 MRSA §551, sub-§5, ¶I** is enacted to read:

33 I. Payment of costs for the collection of overdue
34 reimbursements.

35 **Sec. 9. 38 MRSA §551, sub-§6**, as amended by PL 1985, c. 746,
36 §22, is repealed and the following enacted in its place:

37 6. Reimbursements to Maine Coastal and Inland Surface Oil
38 Clean-up Fund. The commissioner shall seek recovery for the use
39 of the fund all disbursements from the fund, for the following
40 purposes including overdrafts and interest computed at 15% a year
41 from the date of expenditure, unless the department finds the
42 amount involved too small or the likelihood of success too
43 uncertain; provided that recoveries resulting from damage due to
44 an oil pollution disaster declared by the Governor pursuant to
45 section 547 must be apportioned between the Maine Coastal and
46 section 547 must be apportioned between the Maine Coastal and

2 Inland Surface Oil Clean-up Fund and the General Fund so as to
3 repay the full costs to the General Fund of any bonds issued as a
4 result of the disaster:

5 A. All disbursements made by the fund pursuant to
6 subsection 5, paragraphs B, D, E, H and I in connection with
7 a prohibited discharge; and

8 B. In the case of a licensee promptly reporting a discharge
9 as required by this subchapter, disbursements made by the
10 fund pursuant to subsection 5, paragraphs B, D and E in
11 connection with any single prohibited discharge including
12 3rd-party claims in excess of \$15,000, except to the extent
13 that the costs are covered by payments received under any
14 federal program.

15 Requests for reimbursement to the fund if not paid within 30 days
16 of demand must be turned over to the Attorney General for
17 collection. The commissioner may file claims with appropriate
18 federal agencies to recover for the use of the fund all
19 disbursements from the fund in connection with a prohibited
20 discharge.

21 Requests for reimbursement to the fund for disbursements pursuant
22 to subsection 5, paragraph B, if not paid within 60 days of
23 demand, are subject to a penalty not to exceed twice the total
24 amount of reimbursement requested. This penalty is in addition
25 to the reimbursement requested and any other fines or civil
26 penalties authorized by this Title.

27 **Sec. 10. Report.** The Commissioner of Environmental Protection
28 shall report on the status of current plans developed under the
29 Maine Revised Statutes, Title 38, section 546, subsection 4,
30 paragraph E, to the Joint Standing Committee on Energy and
31 Natural Resources and the Office of the Executive Director of the
32 Legislative Council by January 15, 1991. In addition, the
33 commissioner shall report on the purchase of any oil clean-up
34 equipment and the locations of that equipment made possible by
35 the temporary increase in the transfer fees pursuant to Title 38,
36 section 551, subsection 4.

37 **Sec. 11. Commission established; membership.** The Commission to
38 Study Maine's Oil Spill Clean-up Preparedness is established and
39 is composed of the following 15 members:

- 40 1. One Senator appointed by the President of the Senate;
- 41 2. One member of the House of Representatives appointed by
42 the Speaker of the House of Representatives;
- 43 3. Three members representing the marine fisheries
44 interest, including the lobster industry, aquaculture industry

COMMITTEE AMENDMENT "A" to H.P. 1691, L.D. 2341

and sardine industry, appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

4. Two members representing the general public appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

5. The Commissioner of Environmental Protection or the commissioner's designee;

6. Two members representing the petroleum industry appointed by the Governor;

7. One member familiar with oil spill technology appointed by the Governor;

8. One naval architect appointed by the Governor;

9. One member with expertise in coastal geology appointed by the Governor;

10. One member with expertise in fisheries biology appointed by the Governor; and

11. One member with expertise in coastal wildlife habitat appointed by the Governor.

Sec. 12. Appointments; meetings. All appointments must be made no later than 30 days after the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council when the appointments have been made. The first meeting must be held by June 15, 1990, and must be called by the Chair of the Legislative Council. The commission shall select a legislative member as chair.

Sec. 13. Duties. The commission shall hold a public hearing and meet as needed to study Maine's oil spill clean-up preparedness. Specifically, the commission shall review and make recommendations on:

1. Maine's regulatory and statutory framework for preventing, planning for and responding to oil spills in the marine environment;

2. The financial adequacy of the Maine Coastal and Inland Surface Oil Clean-up Fund to address the potential risks and liabilities for cleaning up spills and the adequacy of the fund to compensate 3rd parties;

3. Technical and planning strategies to prevent oil spills; and

4. The State's response capacity for a worst case scenario at major vessel traffic areas and vessel facilities along the Maine coast. This evaluation must include: an assessment of probable locations for oil spills; a description of a worst case scenario at each site; the equipment and resources available to deal with a potential disaster; and recommendations for changes to any contingency plans, equipment and resources necessary to take corrective action.

Sec. 14. Report. The commission shall submit its report and recommendations, together with any recommended legislation, to the Joint Standing Committee on Energy and Natural Resources and the Office of the Executive Director of the Legislative Council by November 1, 1990.

Sec. 15. Staff assistance. The commission may request staff assistance from the Legislative Council.

Sec. 16. Reimbursement. The public members of the commission are entitled to legislative per diem and expenses for the days of attendance at commission meetings upon request from the Executive Director of the Legislative Council. The Executive Director of the Legislative Council shall administer the commission's budget.

Sec. 17. Consultants. The commission may hire consultants to provide needed expertise to evaluate and plan for Maine's oil spill clean-up preparedness.

Sec. 18. Allocation. The following funds are allocated from the Maine Coastal and Inland Surface Oil Clean-up Fund to carry out the purposes of this Act.

1989-90 **1990-91**

LEGISLATURE

**Commission to Study Maine's Oil Spill
Clean-up Preparedness**

40	Personal Services	\$770	\$3,850
	All Other	89,380	6,000

42 Provides funds for the per
44 diem, travel, consultants and
46 related expenses of the
48 Commission to Study Maine's
50 Oil Spill Clean-up
Preparedness. Any unexpended
funds lapse to the Maine
Coastal and Inland Surface

COMMITTEE AMENDMENT "A" to H.P. 1691, L.D. 2341

2 Oil Clean-up Fund upon
completion of the study.

4 LEGISLATURE
TOTAL \$90,150 \$9,850

6 ENVIRONMENTAL PROTECTION,
8 DEPARTMENT OF

10 Maine Coastal and Inland Surface Oil
Clean-up Fund

12 Capital Expenditures \$40,000 \$320,000

14 Provides funds for a
16 replacement containment boom
18 budgeted in fiscal year
1990-91 and needed in fiscal
20 year 1989-90 and other
necessary capital equipment.

22 DEPARTMENT OF ENVIRONMENTAL
PROTECTION
24 TOTAL \$40,000 \$320,000

26 TOTAL ALLOCATIONS \$130,150 \$329,850

28 Sec. 19. Effective date; repeal. Sections 4 and 5 of this Act
take effect August 1, 1990, and are repealed February 1, 1991.

30 Emergency clause. In view of the emergency cited in the
32 preamble, this Act takes effect when approved, except as
otherwise indicated.

36 FISCAL NOTE

38 Enactment of this legislation would result in:

40 1. An increase in dedicated revenue to the Maine Coastal
42 Inland Surface Oil Clean-up Fund of approximately \$367,227 for
fiscal year 1990-91. This estimate is based on increasing the
44 fee per barrel on unrefined crude oil and other products to 4¢
from August 1, 1990 to February 1, 1991;

46 2. An allocation of dedicated revenue to the Legislature in
the amount of \$90,150 for fiscal year 1989-90 and \$9,850 for
48 fiscal year 1990-91. This allocation would provide funds for the
expenses of the Commission to Study Maine's Oil Spill Clean-up
50 Preparedness. The Department of Environmental Protection has
indicated that the department has sufficient revenue to cover the
52 above mentioned allocation.

2 3. An allocation of \$40,000 for fiscal year 1989-90 and
3 \$320,000 for fiscal year 1990-91 of dedicated revenue to the
4 Department of Environmental Protection. This proposal would
5 provide funds for a replacement containment boom in fiscal year
6 1989-90 and additional funds in fiscal year 1990-91 for necessary
7 capital equipment.'

8

STATEMENT OF FACT

10

11 This amendment clarifies language in the original bill. It
12 adds a requirement for periodic drills at coastal terminals to
13 determine the adequacy of response plans. It also shifts
14 responsibility for plan review from the Board of Environmental
15 Protection to the Commissioner of Environmental Protection.

16

17 The amendment also changes the time period for required
18 reimbursement for the Department of Environmental Protection's
19 clean-up activities from 60 days to 30 days to be consistent with
20 other reimbursement provisions of the Maine Coastal and Inland
21 Surface Oil Clean-up Fund. In addition, the Department of
22 Environmental Protection is authorized to use fund money to
23 contract for the collection of overdue reimbursements.

24

25 The reporting requirements for the Commissioner of
26 Environmental Protection are expanded to include a report of any
27 equipment purchased through the temporary fee increase proposed
28 in this amendment.

30

31 The Commission to Study Maine's Oil Spill Clean-up
32 Preparedness is established in this amendment to review and make
33 recommendations on Maine's ability to clean up a major oil
34 spill. This study is funded by an allocation from the Maine
35 Coastal and Inland Surface Oil Clean-up Fund. An allocation
36 section and fiscal note are added in this amendment.

36

Reported by the Committee on Energy and Natural Resources
Reproduced and distributed under the direction of the Clerk of the
House
4/4/90 (Filing No. H-1056)