

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT <sup>A</sup> " to H.P. 1150, L.D. 1675, Bill, "An Act to Clarify the Laws Pertaining to Underground Oil Storage Tanks"

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

Sec. 1. 38 MRSA §563-A, sub-§1-C is enacted to read:

1-C. Extension. The removal requirement for an underground oil storage tank or facility prescribed in subsection 1 is extended 12 months if, prior to the removal date prescribed in subsection 1, a person required to remove an underground oil storage facility or tank:

A. Can not secure financing for that removal as evidenced by 3 letters from financial institutions; or

B. Can not obtain the services of a certified underground oil storage tank installer or remover required under section 566-A as evidenced by 3 letters from certified underground oil storage tank installers or removers.

Sec. 2. 38 MRSA §568, sub-§3, ¶C is enacted to read:

C. Upon completion of the clean-up activity, the commissioner shall issue a letter to the responsible party or parties indicating that the clean-up order has been complied with for one or more parcels.

Sec. 3. 38 MRSA §568-A, sub-§1, ¶A, as enacted by PL 1989, c. 865, §15 and affected by §§24 and 25, is amended to read:

A. The applicant must submit within 90 days of reporting the discharge, a written request to the commissioner to be covered by the fund. The request must include:

- 2 (1) A description of the discharge and the locations  
4 threatened or affected by the discharge, to the extent  
known;
- 6 (2) An agreement that the applicant shall pay the  
8 initial costs of cleanup and 3rd-party damage claims up  
to the deductible amount specified in subsection 2; and
- 10 (3) Documentation that the applicant is in substantial  
12 compliance with the requirements of paragraph B.

14 Within 90 days of receipt of an applicant's completed  
16 request for coverage by the fund submitted pursuant to  
18 subsection 1, paragraph A, the commissioner must issue an  
order approving or denying the applicant's request. Failure  
to issue an order within this period constitutes approval of  
the applicant's request for coverage by the fund.

20 **Sec. 4. 38 MRSA §569, first ¶,** as amended by PL 1989, c. 865,  
22 §16 and affected by §§24 and 25, is further amended to read:

24 The Ground Water Oil Clean-up Fund is established to be used  
26 by the department as a nonlapsing, revolving fund for carrying  
out the purposes of this subchapter. The balance in the fund is  
limited to \$15,000,000. When the fund balance reaches  
\$15,000,000, the collection of fees, as prescribed under  
subsection 4-A, paragraphs A and B, abates until the fund balance  
is reduced to \$12,500,000, at which point those fees are  
reimposed. To this fund are credited all registration fees, fees  
30 for late payment or failure to register, penalties, transfer  
32 fees, reimbursements, assessments and other fees and charges  
related to this subchapter. To this fund are charged any and all  
34 expenses of the department related to this subchapter, including  
administrative expenses, payment of 3rd-party damages covered by  
36 this subchapter, costs of removal of discharges of oil and costs  
of cleanup of discharges, including, but not limited to,  
38 restoration of water supplies and any obligations of the State  
pursuant to Title 10, section 1024, subsection 1.

40 **Sec. 5. 38 MRSA §569, sub-§4-A, ¶¶A and B,** as enacted by PL  
42 1989, c. 865, §16 and affected by §§24 and 25, are amended to  
read:

44 A. Until January 1, 1994, and after January 1, 1998, a fee  
46 is assessed of 44¢ per barrel of gasoline; 25¢ per barrel of  
refined petroleum products and their by-products other than  
48 gasoline, liquid asphalt and #6 fuel oil, including #2 fuel  
oil, kerosene, jet fuel and diesel fuel; and 10¢ per barrel  
50 of #6 fuel oil. The fee is assessed on the first transfer  
of those products by oil terminal facility licensees, as  
52 defined in section 542, subsection 7, and on a person

2 required to register with the commissioner under section  
3 545-B, who first transports oil ~~in~~ into the State. The fee  
4 is not assessed on petroleum products that are exported from  
5 this State. These fees must be paid monthly on the basis of  
6 records certified to the commissioner. This subsection does  
7 not apply to waste oil transported into the State in any  
8 motor vehicle that has a valid license issued by the  
9 department for the transportation of waste oil pursuant to  
10 section 1319-O and which is subject to fees established  
11 under section 1319-I.

12 B. After January 1, 1994, the fees assessed in paragraph A  
13 increase to 48¢ per barrel of gasoline and 27¢ per barrel of  
14 refined petroleum products and their by-products other than  
15 gasoline, liquid asphalt and #6 fuel oil, including #2 fuel  
16 oil, kerosene, jet fuel and diesel fuel. The fee is not  
17 assessed on petroleum products that are exported from this  
18 State. The fees assessed on #6 fuel oil remain at 10¢ per  
19 barrel. This paragraph is repealed on January 1, 1998.

20 **Sec. 6. 38 MRS §569, sub-§4-D is enacted to read:**

21 4-D. Reimbursement for fees imposed on transfers out of  
22 State. Any person who prior to the effective date of this  
23 subsection has paid a fee assessed pursuant to subsection 4-A,  
24 paragraph A on petroleum products that were exported from this  
25 State must be reimbursed by the department upon presentation of  
26 documentation of that payment and transfer.

27 **Sec. 7. Repeal.** Sections 3 to 5 of this Act are repealed  
28 December 31, 1999.

29

30

#### FISCAL NOTE

31

1991-92

1992-93

32

#### REVENUES

33

Other Funds

(\$60,000)

(\$60,000)

34

35 The exclusion of interstate transfers of refined petroleum  
36 products from the payment of import fees will reduce dedicated  
37 revenue to the Ground Water Oil Clean-up Fund by (\$60,000)  
38 annually beginning in fiscal year 1991-92 based on a projected  
39 136,000 barrels of refined petroleum products that are exported  
40 from Maine annually. The additional allocations from this fund  
41 necessary to reimburse fees paid on documented transfers out of  
42 State can not be determined at this time.

43

2 This bill also establishes a cap of \$15,000,000 for the  
Ground Water Oil Clean-up Fund. The current balance in the fund  
4 is approximately \$6,700,000.'

6  
8 **STATEMENT OF FACT**

10 This amendment replaces the original bill to incorporate the  
resolution of conflicts enacted by Public Law 1991, chapter 66.  
12 The amendment does not include the definition of environmental  
assessment. The amendment allows for a 12-month extension of the  
14 removal schedule for underground oil storage tanks that are not  
cathodically protected if a person can not get financing or has  
trouble getting a certified person to remove that tank. A person  
16 must demonstrate this problem by providing at least 3 letters  
from appropriate parties.

18 The amendment does not include the requirement for the  
20 Commissioner of Environmental Protection to include language that  
no further remedial action is required for any letter written  
22 indicating that there has been compliance with a clean-up order.

24 A section of the bill extending the date for tank removals  
to be eligible for coverage under the Ground Water Oil Clean-up  
26 Fund is removed. The amendment enacts a requirement for the  
Commissioner of Environmental Protection to approve or deny an  
28 application for coverage by the fund within 90 days of the  
submission of the completed application or the application is  
30 automatically approved.

32 The Ground Water Oil Clean-up Fund is capped at \$15,000,000,  
although fees for a 3rd-party Commercial Risk Pool Account are  
34 excluded from the payments that would be suspended when the cap  
is reached. An exclusion for refined petroleum products that are  
36 exported from the State is clarified as is a requirement for  
reimbursement of any fees paid on documented transfers out of  
38 state.

40 The amendment also adds a fiscal note to the bill.

Reported by the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the  
House  
(6/5/91) (Filing No. H-577)