

# MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1258, L.D. 1826, Bill, "An Act to Amend Maine's Underground Oil Storage Laws"

Amend the bill in section 1 by striking out all of the amending clause and subsection 2 and inserting in their place the following:

'Sec. 1. 38 MRSA §562-A, sub-§§8 and 19, as enacted by PL 1989, c. 865, §2, are amended to read:

8. Existing underground oil storage facility or existing underground oil storage tank. "Existing underground oil storage facility" or "existing underground oil storage tank" means any facility or tank, as defined in subsections 21 and 22, fully installed as of the ~~effective date of this Act~~ April 19, 1990, the location of which has not changed.'

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 38 MRSA §563-A, sub-§8 is enacted to read:

8. Repaired concrete underground oil storage tanks. The requirements of subsection 1 do not apply to underground oil storage tanks that are constructed primarily of concrete and that:

A. Exceed 100,000 gallons in capacity;

B. Have been repaired after December 31, 1988;

C. Have environmental monitoring and other leak detection procedures approved by the commissioner; and

D. Have stored only #6 fuel oil since January 1, 1991.

After October 1, 1997 or after a documented leak or subsurface discharge of oil, a person may not operate, maintain or store oil in a concrete underground oil storage facility or tank exempt under this subsection.'

Further amend the bill in section 8 in paragraph B in the first line (page 6, line 24 in L.D.) by striking out the following: "~~without sufficient cause~~" and inserting in its place the following: 'without sufficient cause'

Further amend the bill by striking out all of sections 10 and 11 and inserting in their place the following:

'Sec. 10. 38 MRSA §568-A, sub-§1, ¶D, as enacted by PL 1989, c. 865, §15 and affected by §§24 and 25, is amended to read:

D. In any one calendar year, an applicant may only apply for coverage of clean-up costs and 3rd-party damage claims that total less than \$2,000,000 aggregate per facility owner. This limit includes claims made in subsequent years on those discharges.

Sec. 11. 38 MRSA §568-A, sub-§2, as enacted by PL 1989, c. 865, §15 and affected by §§24 and 25, is amended to read:

2. **Deductibles.** Applicants eligible for coverage by the fund under subsection 1, must pay the initial costs for expenses resulting from cleaning up and compensating eligible 3rd-party damages from a discharge prohibited under section 543 on a per occurrence basis according to the following schedule:

| Number of facilities<br>owned <u>by facility owner</u> | Costs paid by<br>applicant |
|--|----------------------------|
| 1  | \$2,500                    |
| 2 to 5   | 5,000                      |
| 6 to 10  | 10,000                     |
| 11 to 30   | 50,000                     |
| over 30  | 100,000                    |

The commissioner shall pay any eligible additional costs up to \$1,000,000 associated with activities under section 569, subsection 5, paragraphs B, D and I, resulting from a discharge from the fund. The commissioner may pay any costs eligible for coverage by the fund above \$1,000,000 from the fund but the commissioner shall recover these expenditures from the responsible party pursuant to section 569.

Sec. 12. 38 MRSA §569, sub-§2-A, ¶I is enacted to read:

2 I. A 3rd-party damage claim for damages to real estate may  
4 not include the devaluation of the real estate associated  
6 with the loss of a water supply if the commissioner finds  
8 under section 568, subsection 2 that a public water supply  
is available and best meets the criteria of that subsection  
and the property owner did not agree to be served by that  
public water supply.

10 **Sec. 13. 38 MRSA §569, sub-§6, as repealed and replaced by PL**  
12 **1991, c. 66, Pt. A, §31, is amended to read:**

12 **6. Reimbursements to the Ground Water Oil Clean-up Fund.**  
14 The commissioner shall seek recovery for the use of the fund of  
16 all sums greater than \$1,000,000 per occurrence, expended from  
18 the fund pursuant to subsection 5, paragraph I, for an applicant  
20 for coverage by the fund found by the commissioner to be eligible  
22 under section 568-A, subsection 1, and all sums expended from the  
24 fund when no applicant was found by the commissioner to be  
26 eligible under section 568-A, subsection 1, including overdrafts,  
28 for the purposes described in subsection 5, paragraphs B, D, E, G  
30 and I, or for other damage incurred by the State, in connection  
with a prohibited discharge, including interest computed at 15% a  
year from the date of expenditure, unless the commissioner finds  
the amount involved too small or the likelihood of success too  
uncertain. If a request for reimbursement to the fund is not  
paid within 30 days of demand, the commissioner shall refer the  
request to the Attorney General or to a collection agency, agent  
or attorney retained by the department with the approval of the  
Attorney General in conformance with Title 5, section 191 for  
collection.

32 This subsection is repealed December 31, 1999.

34 **Sec. 14. 38 MRSA §570-F, first ¶, as affected by PL 1989, c.**  
36 **890, Pt. A, §40 and amended by Pt. B, §154, is repealed and the**  
following enacted in its place:

38 This subchapter may not be construed to authorize the  
40 department to require registration of or to regulate the  
installation or operation of underground tanks used:

- 42 1. Propane storage. For the storage of propane; or
- 44 2. Other structure. As an oil-water separator, catch  
46 basin, flood drain or other emergency containment structure  
provided that the structure:
  - 48 A. Is used to collect, capture or treat storm water surface  
50 runoff or oil spills; and

B. Is not used for the storage of oil.

2  
4 Sec. 15. 38 MRSA §570-K is enacted to read:

6 §570-K. Aboveground oil storage facilities

8 1. Definition. For the purposes of this section,  
10 "aboveground oil storage facility" means a tank or container used  
12 for the storage or supply of oil, of which less than 10% is  
14 underground, together with associated piping and dispensing  
16 facilities. Aboveground oil storage facilities of less than 660  
gallons are not included in this definition if they are used  
exclusively for the storage of #2 and other home heating oil.  
Aboveground oil storage facilities containing only liquefied  
petroleum gas or liquefied natural gas are not included in this  
definition.

18 2. Prohibition. After July 1, 1995, a person may not  
20 operate an aboveground oil storage facility constructed after  
22 July 1, 1985 that has underground piping not constructed of  
cathodically protected steel, fiberglass or other noncorrosive  
material approved by the department.

24 3. Underground piping installation. All underground  
26 piping, whether replacement or new, associated with an  
aboveground oil storage facility must be installed:

28 A. In accordance with section 564 or other applicable  
30 design and installation rules adopted by the board; and

32 B. By persons certified by the Board of Underground Storage  
Tank Installers pursuant to Title 32, chapter 104-A.'

34 Further amend the bill by renumbering the sections to read  
36 consecutively.

38 Further amend the bill by inserting before the statement of  
40 fact the following:

42 **FISCAL NOTE**

44 This bill will allow the Department of Environmental  
46 Protection to utilize collection agencies or attorneys to recover  
48 reimbursements to the Ground Water Oil Clean-up Fund. This  
activity could result in additional collections of dedicated  
revenue to the Ground Water Oil Clean-up Fund in an amount that  
can not be determined at this time.

50 The additional cost to hire these collection professionals  
52 will be paid from the additional revenue.'

