

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2347

H.P. 1671

House of Representatives, February 18, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative COLES of Harpswell.

Cosponsored by Representative LORD of Waterboro and Representative MITCHELL of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Amend the Radioactive Waste Laws.



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

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4 **Sec. 1. 38 MRSA §1503, sub-§1-A** is enacted to read:

6 **1-A. Authority possession of low-level radioactive waste.**
8 **"Authority possession of low-level radioactive waste" means the authority has received actual delivery of and has accepted the low-level radioactive waste at an authority facility.**

10 **Sec. 2. 38 MRSA §1540, sub-§1**, as amended by PL 1989, c. 480,
12 §17, is further amended to read:

14 **1. Strict liability.** Notwithstanding any provision of law
16 to the contrary, any person, including the authority, engaged in
18 low-level radioactive waste disposal or storage activities
20 provided in this chapter, shall--be is subject to liability
 without fault for property damage, bodily injury or death
 resulting from those activities. Any defendant in an action
 under this subsection may be jointly and--severally liable for
 actual damages only as provided in section 1540-A.

22 **Sec. 3. 38 MRSA §1540, sub-§2**, as enacted by PL 1987, c. 530,
24 §4, is repealed.

26 **Sec. 4. 38 MRSA §1540, sub-§3**, as amended by PL 1989, c. 480,
 §17, is repealed.

28 **Sec. 5. 38 MRSA §1540, sub-§4**, as amended by PL 1989, c. 480,
30 §17, is further amended to read:

32 **4. Insurance.** The authority shall purchase, or require any
34 of its contractors to purchase, insurance or other financial
36 protection, including establishing, by rule, a separate
38 self-insurance fund established as a trust with assets that may
40 not be commingled with other funds, against the site failure
42 sufficient to cover any foreseeable problems during the life of
44 the facility plus a reasonable reserve for unforeseen
46 contingencies. The cost of insurance purchased by the authority
48 shall must be included in the assessment and fees charged by the
50 facility under sections 1535 and 1536. The authority shall
 monitor the size of any self-insurance fund established pursuant
 to this subsection. By July 1, 1993, the authority shall
 establish by rule a mechanism to refund on a prorated basis the
 full balance in any self-insurance fund in the event the
 authority no longer proposes to site a facility in the State and
 the authority has no continuing liability. The authority shall
 report to the joint standing committee of the Legislature having
 jurisdiction over radioactive waste matters by January 1, 1994
 and biannually thereafter on the status and form of any
 self-insurance fund established under this subsection.

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Sec. 6. 38 MRSA §1540-A is enacted to read:

§1540-A. Liability scheme

The liability imposed under section 1540 for damages caused by low-level radioactive waste is apportioned as follows.

1. Liability for low-level radioactive waste prior to authority possession. Prior to authority possession of low-level radioactive waste, each generator, owner or transporter of low-level radioactive waste is liable for actual damages caused by the low-level radioactive waste.

2. Liability for low-level radioactive waste in authority possession. Following the authority taking possession of low-level radioactive waste, liability for actual damages caused by the low-level radioactive waste is apportioned in the following order.

A. Siting, design and construction contractors and site operators retained by the authority are liable for damages for their own acts or omissions proximately causing injury or damage to persons or property.

B. The authority is next liable for any unsatisfied damage claims up to the level of insurance coverage secured by the authority as required under section 1540, subsection 4.

C. The authority is next liable for any unsatisfied damage claims up to the level of any self-insurance fund established by the authority under section 1540, subsection 4 on the date of the filing of any action under section 1540, subsection 1.

D. Generators or owners of low-level radioactive waste are next liable for any unsatisfied damage claims in proportion to the volume and curie content of the waste shipped to the low-level radioactive waste storage or disposal facility.

E. If damage claims remain unsatisfied after liability is imposed and apportioned under paragraphs A to D, the State accepts liability for any property damage, bodily injury or death resulting from the low-level radioactive waste disposal or storage activities provided in this chapter.

3. Right of contribution. Any person who has been assessed and has paid damages under subsection 1 or 2 may sue to recover those damages from any person whose act or omission proximately caused those damages.

4. Allows the Low-level Radioactive Waste Authority to assess a supplemental fee on generators and, if necessary, owners of generators to cover their liability.

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