

MAINE STATE LEGISLATURE

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ENERGY & NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1283, L.D. 1731, Bill, "An Act Relating to the Ground Water Oil Clean-up Fund"

Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 38 MRSA §568-A, sub-§6 is enacted to read:

6. Reimbursement of 3rd-party damages paid. If a person claiming to have suffered property damage or actual economic damage directly or indirectly as a result of a discharge of oil to groundwater prohibited by section 543 files a claim for damages against the owner or operator of an underground or aboveground oil storage tank in a court of competent jurisdiction without simultaneously filing or previously having filed a 3rd-party damage claim pursuant to section 569-A, the owner or operator may file a claim with the commissioner to be reimbursed for damages paid or payable to that 3rd party under a settlement or judgment. Such a claim for reimbursement must be filed and processed as follows.

A. The claim for reimbursement must be filed with the commissioner. If the owner or operator has not previously filed an application for fund coverage pursuant to subsection 1, the person claiming reimbursement shall also make application. The application must comply with the requirements of subsection 1 and must be processed and judged by the standards set forth in that subsection except that it is not required to be filed within 180 days of reporting the discharge.

COMMITTEE AMENDMENT

R.O.S.

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2 B. If the person is eligible for fund coverage, the
3 commissioner shall calculate the amount of reimbursement to
4 the owner or operator by determining whether each amount
5 claimed would be eligible for payment had the 3rd party
6 applied directly to the fund. Eligible amounts, minus any
7 deductible that has not previously been met by the owner or
8 operator, must be paid to that owner or operator.

9
10 C. Appeals of decisions made under this subsection may be
11 made to the Fund Insurance Review Board.

12 **Sec. 2. 38 MRSA §569-A, sub-§2, ¶E,** as enacted by PL 1991, c.
13 817, §26, is amended to read:

14
15 E. Awards ~~Damage claim awards~~ paid from the fund en-damage
16 claims to a claimant may not include any amount the claimant
17 has recovered on account of the same damage by way of
18 settlement with the responsible party or the responsible
19 party's representative or judgment of a court of competent
20 jurisdiction against the person causing or otherwise
21 responsible for the discharge.'

22
23 Further amend the bill by inserting after section 3 the
24 following:

25
26 **'Sec. 4. 38 MRSA §569-A, sub-§5, ¶D,** as enacted by PL 1991, c.
27 817, §26, is amended to read:

28
29 D. When the fund balance reaches \$15,000,000, the
30 collection of fees under paragraphs ~~A and B~~ paragraph A
31 abates. When the commissioner projects that the fund
32 balance will reach \$15,000,000, the commissioner must
33 provide a 15-day advance notice of the abatement to persons
34 assessed the fee under paragraphs ~~A and B~~ paragraph A. The
35 \$15,000,000 fund limit may be exceeded to accept transfer
36 fees assessed or received after the 15-day notice has been
37 issued. When the fund balance is reduced to \$12,500,000,
38 the fees assessed under paragraphs ~~A and B~~ paragraph A are
39 reimposed. The commissioner shall provide a 15-day advance
40 notice of the reimposition of those fees.

41
42 **Sec. 5. 38 MRSA §569-A, sub-§8, ¶D,** as enacted by PL 1991, c.
43 817, §26, is amended to read:

44
45 D. Payment of the 3rd-party damage claims awarded in
46 accordance with this section that are not paid by the
47 responsible party or applicant for coverage by the fund and
48 payment of 3rd-party damage claims that are paid to owners
49 or operators pursuant to section 568-A, subsection 6;'
50

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COMMITTEE AMENDMENT "A" to H.P. 1283, L.D. 1731

Further amend the bill by striking out all of sections 4 and 5 and inserting in their place the following:

Sec. 4. Application. Sections 1, 2 and 6 of this Act apply to any judgment entered or settlement effectuated after the effective date of this Act.

Sec. 5. Retroactivity. Sections 3, 4, and 5 of this Act apply retroactively to January 1, 1994.'

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

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

FISCAL NOTE

REVENUES

Other Funds	(\$690,000)	(\$1,380,000)
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The elimination of a scheduled fee increase will reduce certain import fee collections. The estimated reductions of dedicated revenue to the Ground Water Oil Clean-up Fund are \$690,000 and \$1,380,000 in fiscal years 1993-94 and 1994-95, respectively.

The changes in the eligibility requirements for certain claims that can be made against the Ground Water Oil Clean-up Fund are likely to increase expenditures made from the fund. The amounts can not be determined at this time.'

STATEMENT OF FACT

This amendment clarifies that an owner or operator of an oil tank may be reimbursed for damages paid to 3rd parties only if the owner or operator is eligible for fund coverage, and may only be reimbursed for claims that would have been payable to the 3rd party if that person had applied to the fund for coverage instead of suing the owner or operator in court. The amendment also makes technical changes to the laws to reflect the repeal of the fee increase.

COMMITTEE AMENDMENT