

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1731

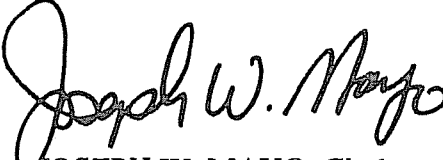
H.P. 1283

House of Representatives, January 18, 1994

An Act Relating to the Ground Water Oil Clean-up Fund.

(EMERGENCY)

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.


JOSEPH W. MAYO, Clerk

Presented by Representative JACQUES of Waterville.
Cosponsored by Representative GOULD of Greenville, Senator LAWRENCE of York and
Representatives: ANDERSON of Woodland, COLES of Harpswell, LORD of Waterboro,
Senator: LUDWIG of Aroostook.

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

Whereas, the amount of the import fees assessed on petroleum products is scheduled to be increased from January 1, 1994 to January 1, 1998 to fund the insurance program that is administered through the Ground Water Oil Clean-up Fund; and

Whereas, the vast majority of insurance claims that were projected to be made against the Ground Water Oil Clean-up Fund have been filed; and

Whereas, the Ground Water Oil Clean-up Fund is and will be sufficiently funded, without the imposition of additional fees, to cover future claims; and

Whereas, certain clarifications regarding the operation and administration of the Ground Water Oil Clean-up Fund need to be made in order to facilitate the 3rd-party claims process; and

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,

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

Sec. 1. 38 MRSA §569-A, sub-§2, ¶E, as enacted by PL 1991, c. 817, §26, is amended to read:

E. Awards from the fund on damage claims may not include any amount the claimant has recovered on account of the same damage by way of settlement with the responsible party or the responsible party's representative or judgment of a court of competent jurisdiction against the person causing or otherwise responsible for the discharge; except, that if a claimant files a claim for damages in a court of competent jurisdiction without simultaneously filing or previously having filed a 3rd-party damage claim pursuant to this section, then, notwithstanding the 2-year limitation for filing claims imposed by this section, any party named as a defendant in the litigation may file a 3rd-party damage claim with the commissioner for the amount of any eligible damages recovered by the claimant either by way of settlement or by judgment. Such a settlement or judgment must be reduced by any amounts received from the fund to the extent these amounts are duplicative.

2 Sec. 2. 38 MRSA §569-A, sub-§5, ¶A, as amended by PL 1993, c.
412, §5, is further amended to read:

4 A. ~~Until January 1, 1994 and after January 1, 1998~~ December
6 31, 1999, a fee is assessed of 44¢ per barrel of gasoline;
25¢ per barrel of refined petroleum products and their
8 by-products other than gasoline, liquid asphalt and #6 fuel
oil, including #2 fuel oil, kerosene, jet fuel and diesel
10 fuel; and 4¢ per barrel of #6 fuel oil. The fee is assessed
on the first transfer of those products by oil terminal
12 facility licensees, as defined in section 542, subsection 7,
and on a person required to register with the commissioner
14 under section 545-B who first transports oil into the
State. The fee is not assessed on petroleum products that
are exported from this State. These fees must be paid
16 monthly on the basis of records certified to the
commissioner. This subsection does not apply to waste oil
18 transported into the State in any motor vehicle that has a
valid license issued by the department for the
20 transportation of waste oil pursuant to section 1319-O and
is subject to fees established under section 1319-I.

22 Sec. 3. 38 MRSA §569-A, sub-§5, ¶B, as amended by PL 1993, c.
24 412, §5, is repealed.

26 Sec. 4. Application. Section 1 of this Act applies to any
judgment entered or settlement effectuated after the effective
28 date of this Act.

30 Sec. 5. Retroactivity. Sections 2 and 3 of this Act apply
retroactively to January 1, 1994.

32 Emergency clause. In view of the emergency cited in the
34 preamble, this Act takes effect when approved.

36 STATEMENT OF FACT

38 This bill repeals the temporary increase in the import fees
40 that are scheduled to be assessed on petroleum products from
January 1, 1994 to January 1, 1998 to fund the insurance program
42 administered through the Ground Water Oil Clean-up Fund.

44 This bill also makes changes in the operation and
administration of the Ground Water Oil Clean-up Fund. Currently,
46 a 3rd-party claimant may file a claim for damages through a civil
action without seeking recovery from the fund for eligible
48 claims. This bill provides a person who is named as a defendant
in such an action with the opportunity to file a 3rd-party damage

claim with the fund so that any eligible expenses will first be
paid out of the fund.

This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.