

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

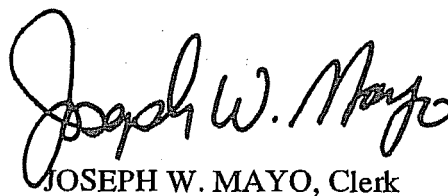
No. 1757

H.P. 1302

House of Representatives, January 20, 1994

**An Act to Amend Certain Laws Pertaining to the Department of
Environmental Protection, Bureau of Hazardous Materials and Solid
Waste Control.**

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ANDERSON of Woodland.
Cosponsored by Senator: LUDWIG of Aroostook.

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

2
4 **Sec. 1. 38 MRSA §564, sub-§2-A, ¶H,** as amended by PL 1993, c. 355, §14, is further amended to read:

6 H. Reporting to the commissioner any of the following indications of a possible leak or discharge of oil:

8 (1) Unexplained differences in daily inventory reconciliation values that, over a 30-day period, exceed 1.0% of the product delivered throughput;

12 (2) Unexplained losses detected through statistical analysis of inventory records;

14 (3) Detection of product in a monitoring well or by other leak detection methods;

16 (4) Failure of a tank or piping precision test, hydrostatic test or other tank or piping tightness test approved by the department; and

18 (5) Discovery of oil off site on or under abutting properties, including nearby utility conduits, sewer lines, buildings, drinking water supplies and soil.

20 The rules may not require the reporting of any leak or discharge of oil above ground of 10 gallons or less that occurs on the premises, including, but not limited to, spills, overfills and leaks, when those leaks or discharges do not reach ground water or surface waters of the State and are cleaned up within 24 hours of discovery, provided that a written log is maintained at the facility or the owner's place of business in this State. For each discharge the log must record the date of discovery, its source, the general location of the discharge at the facility, the date and method of cleanup and the signature of the facility owner or operator certifying the accuracy of the log;

22 **Sec. 2. 38 MRSA §564, sub-§2-A,** as amended by PL 1993, c. 355, §14, is further amended by adding at the end the following:

24 The requirements in paragraphs A and B do not apply to the following tanks provided the associated piping has secondary containment or a suction pump product delivery system or another leak detection system approved by the commissioner and provided that the tank and associated piping have been installed and are operated in accordance with the requirements of this subchapter, including rules adopted under this subchapter: tanks providing product to a generator; double-walled tanks with continuous interstitial space monitoring; and existing tanks constructed of fiberglass, cathodically protected steel or another

2 commissioner-approved noncorrosive material that are monitored
3 continuously for a leak by a method able to detect a product loss
4 of 0.1 gallons or less per hour.

5 **Sec. 3. 38 MRSA §1303-C, sub-§12**, as amended by PL 1993, c.
6 424, §1 and affected by §3, is further amended to read:

7 **12. Disposal.** "Disposal" means the discharge, deposit,
8 dumping, spilling, leaking or placing of any hazardous,
9 biomedical or solid waste, waste oil, refuse-derived fuel, sludge
10 or septage into or on any land, air or water and the incineration
11 of any hazardous-~~or~~ solid waste, refuse-derived fuel, sludge or
12 septage so that the hazardous, biomedical or solid waste, waste
13 oil, refuse-derived fuel, sludge or septage or any constituent
14 thereof may enter the environment or be emitted into the air, or
15 discharged into any waters, including ground waters.

16 **Sec. 4. 38 MRSA §1303-C, sub-§39**, as amended by PL 1993, c.
17 424, §2 and affected by §3, is further amended to read:

18 **39. Treatment.** "Treatment" means any process, including
19 but not limited to incineration, designed to change the character
20 or composition of any hazardous waste, waste oil or biomedical
21 waste so as to render the waste less hazardous or infectious.

22 **Sec. 5. 38 MRSA §1319-U, sub-§5**, as reallocated by PL 1987, c.
23 517, §20, is amended to read:

24 **5. Civil liability.** A person who disposes of or treats
25 hazardous waste, when that disposal or treatment, in fact,
26 endangers the health, safety or welfare of another, is liable in
27 a civil suit for all resulting damages. It is not necessary to
28 prove negligence.

29 For the purposes of this section, damages shall be limited to
30 damages to real estate or personal property or loss of income
31 directly or indirectly as a result of a disposal or treatment of
32 hazardous wastes. Damages awarded may be mitigated if the
33 disposal or treatment is the result of an act of war or an act of
34 God.

35 **Sec. 6. 38 MRSA §1362, sub-§2, ¶D**, as amended by PL 1991, c.
36 811, §2, is further amended to read:

37 **D.** Any person who accepted a hazardous substance for
38 transport, provided that the substance arrived at the
39 uncontrolled site. After April 1, 1992, any person who
40 accepts a hazardous substance for transport and delivers
41 that substance to a licensed hazardous waste storage,
42 treatment or disposal facility according to the manifest
43 signed by the generator is not a responsible party.

