

MAINE STATE LEGISLATURE

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L.D. 454

DATE: 6/12/95

(Filing No. H-431)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 334, L.D. 454, Bill, "An Act to Codify the Common Law Negligence Standard"

Amend the bill by striking out the title and substituting the following:

'An Act Revising the Liability for the Storage and Distribution of Natural Gas'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Sec. 1. 14 MRSA §165, as enacted by PL 1975, c. 186, is repealed and the following enacted in its place:

§165. Liability of those who store or distribute natural gas

1. Liability without proof of negligence. A natural gas company or natural gas pipeline company that stores or distributes natural gas is liable for all acts and omissions of its servants and agents that cause death or injury to persons or damage to property resulting from explosions or fire caused by natural gas escaping from the natural gas storage or distribution system under its control or from explosions or fire caused by defects in the natural gas storage and distribution systems under its control.

2. Rebuttable presumption. When there is death or injury to persons or damage to property resulting from explosions or fire caused by escaping natural gas, there is a rebuttable

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2 presumption that the gas escaped because of a defect in a portion
3 of the storage or distribution system under the company's control.

4 3. Exceptions. The company is not liable for death or
5 injury to persons or damage to property caused by:

6 A. An act of God or war;

8 B. Fault of the plaintiff to the extent that the
10 plaintiff's fault bars or reduces the plaintiff's recovery
11 under section 156; or

12 C. Intervening fault of a 3rd party for whose actions the
14 company is not legally liable. If death or injury to
15 persons or damage to property is caused by the combined
16 fault of the company and other parties, the liability of the
17 company is joint and several with those other parties.

18 4. Indemnity. In the event that the company is exposed to
20 liability under this section because of the negligence of a 3rd
21 party, the 3rd party shall indemnify the company for the
22 company's losses, including any damages awarded or negotiated
23 through settlement to any party, and costs and attorney's fees.'

26 **STATEMENT OF FACT**

28 This amendment replaces the bill and corrects the title to
29 more accurately reflect the purpose and effect of the bill as
30 amended.

32 This amendment revises the liability of natural gas
33 companies and natural gas pipeline companies when escaping gas
34 causes fire or explosions and people are hurt or killed or
35 property is damaged. This amendment holds a company liable for
36 the acts and omissions of the company's employees and agents that
37 cause the deaths, injuries and damages. The company is also
38 liable for deaths, injuries and damages caused by defects in the
39 portion of the distribution system in the company's control. The
40 plaintiff does not need to prove that the company was negligent
41 in these fact situations. There is a rebuttable presumption that
42 any fire or explosion caused by escaping gas is caused by a
43 defect in the portion of the storage or distribution system
44 within the control of the company. To avoid the imposition of
45 liability, the company must show the trier of fact that a defect
46 within the portion of the storage or distribution system within
47 the control of the company did not cause the death, injuries or
48 damage or that there was no defect within that portion.

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COMMITTEE AMENDMENT "A" to H.P. 334, L.D. 454

2 This amendment specifies exceptions to a company's
liability. A company is not liable when the death, injury or
4 damage is caused by:

- 6 1. An act of God or war;
- 8 2. Fault of the plaintiff to the extent that the
plaintiff's fault bars or reduces the plaintiff's recovery under
the comparative negligence statute; or
- 10 3. Intervening fault of a 3rd party for whose actions the
12 company is not legally liable. If the company is partly at fault
along with one or more 3rd parties, the company is jointly and
14 severally liable with those 3rd parties.

16 This amendment also provides for the indemnification of the
company by the 3rd party who is liable. The 3rd party may be
18 required to pay the damage award or settlement plus costs and
attorney's fees or to reimburse the company for the award or
20 settlement and costs and fees paid and incurred by the company.

COMMITTEE AMENDMENT