

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1042

H.P. 768

House of Representatives, March 28, 1995

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**An Act to Amend the Surface Water Ambient Toxics Monitoring Program.**

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Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.  
Cosponsored by Representatives: ADAMS of Portland, FITZPATRICK of Durham, GATES of Rockport, KILKELLY of Wiscasset, MITCHELL of Portland, SAXL of Bangor, Senators: LONGLEY of Waldo, McCORMICK of Kennebec, MICHAUD of Penobscot, PINGREE of Knox, RAND of Cumberland.

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

2           **Sec. 1. 38 MRSA §420-B, sub-§4**, as enacted by PL 1993, c. 720,  
4 §1, is amended to read:

6           **4. Report.** No later than ~~January-1st~~ February 15th of each  
8 year, the commissioner shall report on the monitoring program to  
10 the joint standing committee of the Legislature having  
jurisdiction over natural resource matters. This report must  
contain:

12           A. At the start of each 5-year period, the 5-year  
monitoring plan;

14           B. The annual work program for the past year and the  
16 current year;

18           C. The commissioner's conclusions as to the levels of toxic  
contamination in the State's waters and fisheries; and

20           D. Any trends of increasing or decreasing levels of  
22 contaminants found.

24           **Sec. 2. 38 MRSA §551, sub-§4, ¶A**, as repealed and replaced by  
PL 1991, c. 454, §9 and affected by §14, is amended to read:

26           A. License fees are determined on the basis of ~~4¢~~ 3.3¢ per  
28 barrel until July 1, ~~1994~~ 1999 and 3¢ per barrel after July  
30 1, ~~1994~~ 1999, of unrefined crude oil and 3.7¢ per barrel  
32 until July 1, 1999 and 3¢ per barrel after July 1, 1999 of  
all other refined oil, including #6 fuel oil, #2 fuel oil,  
34 kerosene, gasoline, jet fuel and diesel fuel, transferred by  
the licensee during the licensing period and must be paid  
36 monthly by the licensee on the basis of records certified to  
the commissioner. License fees must be paid to the  
department and upon receipt by it credited to the Maine  
Coastal and Inland Surface Oil Clean-up Fund.

38           **Sec. 3. 38 MRSA §551, sub-§4, ¶D**, as repealed and replaced by  
40 PL 1991, c. 454, §10 and affected by §14, is amended to read:

42           D. Any person who is required to register with the  
44 commissioner pursuant to section 545-B and who first  
transports oil in Maine shall pay fees that are determined  
46 on the basis of ~~4¢~~ 3.7¢ per barrel until July 1, ~~1994~~ 1999  
and 3¢ per barrel after July 1, ~~1994~~ 1999, for all refined  
48 oil, including #6 fuel oil, #2 fuel oil, kerosene, gasoline,  
jet fuel, diesel fuel and liquid asphalt transported by the  
50 registrant during the period of registration. Fees must be  
paid monthly by the registrant on the basis of records

2 certified to the commissioner. Fees must be paid to the  
3 department and upon receipt by it credited to the Maine  
4 Coastal and Inland Surface Oil Clean-up Fund. The  
5 registrant shall make available to the commissioner and the  
6 commissioner's authorized representatives all documents  
7 relating to the oil transported by the registrant during the  
8 period of registration. This paragraph does not apply to  
9 waste oil transported into Maine in any motor vehicle that  
10 has a valid license issued by the department for the  
11 transportation of waste oil pursuant to section 1319-O and  
12 is subject to fees established under section 1319-I.

13 **Sec. 4. 38 MRSA §551, sub-§4, ¶E,** as enacted by PL 1991, c.  
14 817, §16, is amended to read:

15 E. When the commissioner projects that the fund balance  
16 will reach ~~\$6,000,000~~ \$6,500,000, the commissioner shall  
17 provide a 15-day notice that the per barrel fees assessed  
18 under this subsection will be suspended. The ~~\$6,000,000~~  
19 \$6,500,000 fund limit may be exceeded to accept transfer  
20 fees assessed or received after the 15-day notice has been  
21 issued. Following any suspension of fees assessed under  
22 this subsection, the commissioner shall provide a 15-day  
23 advance notice to licensees before fees are reimposed.

24 **Sec. 5. 38 MRSA §551, sub-§5, ¶H,** as amended by PL 1991, c.  
25 698, §11, is further amended to read:

26 H. Sums, up to \$50,000 each year, that have been allocated  
27 by the Legislature on a contingency basis in accordance with  
28 section 555 for payment of costs for damage assessment for  
29 specific spills and site-specific studies of the  
30 environmental impacts of a particular discharge prohibited  
31 by section 543 that may have adverse economic effects and  
32 occur subsequent to such an allocation, when those studies  
33 are determined necessary by the commissioner; and

34 **Sec. 6. 38 MRSA §551, sub-§5, ¶I,** as enacted by PL 1989, c.  
35 868, §8, is amended to read:

36 I. Payment of costs for the collection of overdue  
37 reimbursements; and

38 **Sec. 7. 38 MRSA §551, sub-§5, ¶J** is enacted to read:

39 J. All costs related to the surface water ambient toxic  
40 monitoring program not to exceed \$500,000 annually.

41

## STATEMENT OF FACT

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4           In 1992, the Legislature directed the Commissioner of  
6           Environmental Protection to assess past and current data on toxic  
8           pollutants in the ambient environment of all surface waters of  
10          the State, and to recommend the necessary steps to implement an  
12          ambient water toxics monitoring program if this assessment  
14          indicated that such a program was warranted. The commissioner  
16          and the commissioner's advisory committee, by a majority vote,  
18          found that the State did not have a comprehensive ambient toxics  
20          monitoring program to assess contamination.

12

14           The surface water ambient toxics monitoring program was  
16           established by the Legislature in 1994 for the purpose of  
18           developing and implementing a comprehensive, ongoing program to  
20           monitor the waters of the State for toxic contamination. Such  
22           monitoring is an essential part of the State's effort to protect  
24           human and ecological health and to provide a scientifically sound  
26           basis for risk assessing, setting environmental priorities and  
28           making general environmental decisions.

22

24           This bill modifies the date for reporting on the surface  
26           water ambient toxics monitoring program to the joint standing  
28           committee of the Legislature having jurisdiction over natural  
30           resource matters. The reporting date established by this bill  
32           provides the Department of Environmental Protection with  
34           additional time to plan monitoring, collect data, perform  
36           analyses, interpret results and prepare a written report on  
38           findings.

30

32           This bill also establishes a broad-based means of funding  
34           for the program at a level of \$500,000 per year. Funding would  
36           be based on the assessment of minimal per barrel fees on all oil  
38           products imported into the State. Currently, no funding for  
          continuing the surface water toxics monitoring program is  
          ensured. Adequate and dependable funding for the program is  
          necessary to ensure that comprehensive and ongoing monitoring of  
          the surface waters of the State for toxics contamination will  
          proceed.