

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 950, L.D. 1313, Bill, "An Act to Amend Certain Laws Administered by the Department of Environmental Protection"

Amend the bill by striking out all of section 19.

Further amend the bill by inserting after section 25 the following:

'Sec. 26. 38 MRSA §542, sub-§9-C is enacted to read:

9-C. Responsible party. "Responsible party" means any person who could be held liable under section 552.'

Further amend the bill by inserting after section 27 the following:

'Sec. 28. 38 MRSA §551, sub-§6-A is enacted to read:

6-A. Lien. All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil are a lien against the real estate of the responsible party. The lien does not apply to the real estate of a licensee if the discharge was caused or suffered by a carrier destined for the licensee's facilities.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of

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2 lien must include a description of the real estate, the amount of
3 the lien and the name of the owner as grantor.

4 When the amount for which a lien has been recorded under this
5 subsection has been paid or reduced, the commissioner, upon
6 request by any person of record holding interest in the real
7 estate that is the subject of the lien, shall issue a certificate
8 discharging or partially discharging the lien. The certificate
9 must be recorded in the registry in which the lien was recorded.
10 Any action of foreclosure of the lien must be brought by the
11 Attorney General in the name of the State in the Superior Court
12 for the judicial district in which the real estate subject to the
13 lien is located.

14 **Sec. 29. 38 MRSA §551, last ¶,** as enacted by PL 1991, c. 817,
15 §19, is repealed.'

16 Further amend the bill by inserting after section 28 the
17 following:

18 **'Sec. 29. 38 MRSA §552, sub-§4, ¶B,** as enacted by PL 1991, c.
19 380, §2, is amended to read:

- 20 B. Paragraph A does not apply:
- 21 (1) To personal injury or wrongful death;
 - 22 (2) If the responder is grossly negligent or engages
23 in willful misconduct; or
 - 24 (3) To a responsible party. ~~For the purposes of this~~
25 ~~subsection, "responsible party" means any person who~~
26 ~~caused or is otherwise responsible for the discharge or~~
27 ~~threatened discharge with respect to which the~~
28 ~~responder's actions are taken or omissions occur.'~~

29 Further amend the bill by striking out all of section 29.

30 Further amend the bill by inserting after section 31 the
31 following:

32 **'Sec. 32. 38 MRSA §569-A, sub-§10-A** is enacted to read:

33 **10-A. Lien.** All costs incurred by the State in the
34 removal, abatement and remediation of a prohibited discharge of
35 oil from an aboveground or underground storage facility are a
36 lien against the real estate of the responsible party. For a
37 responsible party determined eligible for coverage under section
38 568-A, subsection 1, the lien is for the amount of any unpaid
39 deductible assigned under section 568-A, subsection 2 or
40 section 568-A, subsection 3.

2 for eligible clean-up costs and 3rd-party damage claims above
3 \$1,000,000.

4 A certificate of lien signed by the commissioner must be sent by
5 certified mail to the responsible party prior to being recorded
6 and may be filed in the office of the clerk of the municipality
7 in which the real estate is located. The lien is effective when
8 the certificate is recorded with the registry of deeds for the
9 county in which the real estate is located. The certificate of
10 lien must include a description of the real estate, the amount of
11 the lien and the name of the owner as grantor.

12 When the amount for which a lien has been recorded under this
13 subsection has been paid or reduced, the commissioner, upon
14 request by any person of record holding interest in the real
15 estate that is the subject of the lien, shall issue a certificate
16 discharging or partially discharging the lien. The certificate
17 must be recorded in the registry in which the lien was recorded.
18 Any action of foreclosure of the lien must be brought by the
19 Attorney General in the name of the State in the Superior Court
20 for the judicial district in which the real estate subject to the
21 lien is located.

22
23 **Sec. 33. 38 MRSA §569-B, sub-§6-A is enacted to read:**

24
25 **6-A. Lien.** All costs incurred by the State in the removal,
26 abatement and remediation of a prohibited discharge of oil from
27 an aboveground or underground storage facility are a lien against
28 the real estate of the responsible party.

29
30 A certificate of lien signed by the commissioner must be sent by
31 certified mail to the responsible party prior to being recorded
32 and may be filed in the office of the clerk of the municipality
33 in which the real estate is located. The lien is effective when
34 the certificate is recorded with the registry of deeds for the
35 county in which the real estate is located. The certificate of
36 lien must include a description of the real estate, the amount of
37 the lien and the name of the owner as grantor.

38
39 When the amount for which a lien has been recorded under this
40 subsection has been paid or reduced, the commissioner, upon
41 request by any person of record holding interest in the real
42 estate that is the subject of the lien, shall issue a certificate
43 discharging or partially discharging the lien. The certificate
44 must be recorded in the registry in which the lien was recorded.
45 Any action of foreclosure of the lien must be brought by the
46 Attorney General in the name of the State in the Superior Court
47 for the judicial district in which the real estate subject to the
48 lien is located.'

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2 Further amend the bill by striking out all of section 33.

4 Further amend the bill by striking out all of section 34 and inserting in its place the following:

6 'Sec. 34. 38 MRSA §585-D, sub-§2, as enacted by PL 1993, c. 358, §1, is amended to read:

8 2. Ozone transport region adoption. Jurisdictions comprising more than 60% of the total registrations of new passenger cars and ~~light-duty trucks~~ in the ozone transport region have adopted a low-emission vehicle program that meets the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Section 7507 and the first model year required to meet standards under the low-emission vehicle program in any of those states is not later than motor vehicle model year 1998 2000. For purposes of this paragraph, "ozone transport region" means the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont, and the consolidated metropolitan statistical area that includes the District of Columbia.'

22 Further amend the bill by inserting after section 34 the following:

24 'Sec. 35. 38 MRSA §585-D, as enacted by PL 1993, c. 358, §1, is amended by adding a new paragraph at the end to read:

28 The commissioner shall complete a study of zero-emission vehicles and submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 2000. This study must include an examination of zero-emission vehicle technology, price, performance and consumer acceptability and implementation issues relating to use of those vehicles in the State. The study must recommend any rulemaking necessary for the board to establish a zero-emission vehicle program that is appropriate for the State and a schedule that provides the automobile manufacturers with a minimum 2-year lead time prior to implementation of such a program. Any rules establishing a zero-emission vehicle program are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.'

44 Further amend the bill by striking out all of section 35.

46 Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

This bill makes a number of statutory changes regarding spending and transfer authorizations to be consistent with budgeted transfers and allocations included in Public Law 1997, chapter 24. These changes include increasing the amount of funds that can be transferred to the Board of Environmental Protection Fund and changing the distribution of allowable spending within the Ground Water Oil Clean-up Fund.

The expanded ability of municipalities to assume authority to issue certain permits will result in insignificant reductions of dedicated revenue to the Maine Environmental Protection Fund within the Department of Environmental Protection from permit fees.

The Department of Environmental Protection will incur some minor additional costs to amend certain rules pertaining to the Board of Underground Storage Tank Installers and to submit a required report to the Legislature. These costs can be absorbed within the department's existing budgeted resources.

Authorizing the Maine Hazardous Waste Fund and the Ground Water Oil Clean-up Fund to recover certain costs as liens against certain parties may result in future reimbursements to these funds. The amounts of any additional future dedicated revenue can not be determined at this time.

The additional costs associated with providing additional legal services can be absorbed by the Department of Attorney General utilizing existing budgeted resources.'

SUMMARY

This amendment removes from the bill language transferring authority to issue permits for scientific research and experimentation in the fields of pollution and pollution control from the Board of Environmental Protection to the Commissioner of Environmental Protection.

The amendment also eliminates language in the bill that made the recovery of oil spill clean-up costs a lien on the property of persons responsible for the spill with precedence over all other encumbrances on the property. The amendment makes the recovery of oil spill clean-up costs a lien on the property of

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2 persons responsible for the spill and exempts from the lien the
real estate of a party that is determined responsible only
4 because a vessel that caused a spill was headed for that party's
terminal facilities. The amendment also adds the lien provision
6 to the laws that govern the Ground Water Oil Clean-up Fund after
December 31, 1999.

8 The amendment adds to the provisions in the bill relating to
a regional low-emission vehicle program a requirement that the
10 Department of Environmental Protection study zero-emission
vehicles and issues relating to the implementation and use of
12 those vehicles in the State and report to the joint standing
committee of the Legislature having jurisdiction over natural
14 resources matters no later than January 1, 2000. It also removes
from those provisions references to federal regulations that are
16 no longer applicable.

18 The amendment removes from the bill language repealing and
replacing the law governing state cost share for landfill closure.
20

The amendment also adds a fiscal note to the bill.

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