

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2105

S.P. 778

In Senate, January 20, 1998

**An Act to Reduce Groundwater Contamination from Leaking Oil Storage  
Tanks.**

(EMERGENCY)

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Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.  
Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.

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

4           Whereas, leaks and spills from aboveground oil storage  
6 facilities are reported to the Department of Environmental  
Protection at a rate of one per day; and

8           Whereas, these leaks and spills often adversely affect  
10 public health by contaminating drinking water supplies and  
polluting indoor air; and

12           Whereas, clean-up costs for these leaks and spills average  
14 \$19,000 per incident; and

16           Whereas, these clean-up costs are paid from the Ground Water  
Oil Clean-up Fund and the number of claims against the fund for  
18 cleanup from home heating oil tanks has doubled since 1993; and

20           Whereas, fund expenditures for oil cleanup could be reduced  
by using the fund to pay for tank improvements that prevent leaks  
22 and spills; and

24           Whereas, statutory authorization is needed to disburse money  
from the fund for such pollution prevention measures; and

26           Whereas, in the judgment of the Legislature, these facts  
28 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
30 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

34           **Sec. 1. 10 MRSA §1023-D, sub-§3,** as repealed and replaced by  
36 PL 1993, c. 601, §2, is amended to read:

38           **3. Application of fund.** Money in the fund may be applied  
to carry out any power of the authority under this section or  
40 under or in connection with section 1026-F, including, but not  
limited to, to pledge or transfer and deposit money in the fund  
42 as security for and to apply money in the fund in payment of  
principal, interest and other amounts due on insured loans.  
44 Money in the fund may be used for direct loans or grants for all  
or part of underground oil storage facility replacement projects,  
46 underground oil storage tank replacement projects, aboveground  
oil storage tank or facility construction or replacement projects  
48 or gasoline service station vapor control or petroleum liquids  
transfer vapor recovery projects as described in paragraph A when  
50 the authority determines that:

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A. One or more of the following circumstances exists:

(1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;

(2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; or

(3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation;

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan.

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-F and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than \$35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major Besten New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is \$600,000. Loans or grants for the purposes listed in paragraph A, subparagraph (3) may not exceed \$1,000,000 in a 12-month period. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

2           **Sec. 2. 38 MRSA §569-A, sub-§8, ¶¶K and L**, as enacted by PL  
1993, c. 363, §14 and affected by §21, are amended to read:

4           K. All costs associated with the Fund Insurance Review  
Board; and

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8           L. Costs incurred by the Office of the State Fire Marshal to  
implement the duties assigned to the State Fire Marshal in  
this chapter; and

10           **Sec. 3. 38 MRSA §569-A, sub-§8, ¶M** is enacted to read:

12           M. Sums up to \$1,000,000 each year to replace, retrofit or  
14           otherwise upgrade the condition of an aboveground oil  
16           storage tank or facility when the commissioner considers  
18           that action necessary to abate an imminent threat to a  
              sensitive geologic area or to the success of groundwater  
              remedial measures, including restoration of water supplies.

20           **Sec. 4. 38 MRSA §569-A, sub-§10**, as enacted by PL 1991, c.  
817, §26, is amended to read:

22           **10. Reimbursements to fund.** The commissioner shall seek  
24           recovery for the use of the fund of all sums greater than  
\$1,000,000 per occurrence expended from the fund pursuant to  
26           subsection 8, paragraph J for an applicant for coverage by the  
fund found by the commissioner to be eligible under section  
28           568-A, subsection 1 and all sums expended from the fund when no  
applicant was found by the commissioner to be eligible under  
30           section 568-A, subsection 1, including overdrafts, for the  
purposes described in subsection 8, paragraphs B, D, E, H, J and  
32           J M or for other damage incurred by the State, in connection with  
a prohibited discharge, including interest computed at 15% a year  
34           from the date of expenditure, unless the commissioner finds the  
amount involved too small or the likelihood of success too  
36           uncertain. If a request for reimbursement to the fund is not  
paid within 30 days of demand, the commissioner shall refer the  
38           request to the Attorney General or to a collection agency, agent  
or attorney retained by the department with the approval of the  
40           Attorney General in conformance with Title 5, section 191 for  
collection.

42           **Sec. 5. 38 MRSA §569-B, sub-§5, ¶¶G and H**, as enacted by PL  
44           1991, c. 817, §26, are amended to read:

46           G. Sums up to \$50,000 each year, which have been allocated  
by the Legislature on a contingency basis in accordance with  
48           section 570-A for payment of costs for studies of the  
environmental impacts of discharges to ~~ground--water~~  
50           groundwater prohibited by section 543 that may have adverse

2 economic effects and that occur subsequent to the  
allocation, when the studies are considered necessary by the  
3 commissioner; and

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5 H. All costs associated with the Board of Underground Oil  
6 Storage Tank Installers; and

7 **Sec. 6. 38 MRSA §569-B, sub-§5, ¶I** is enacted to read:

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9 I. Sums up to \$500,000 each year to replace, retrofit or  
10 otherwise upgrade the condition of an aboveground oil  
11 storage tank or facility when the commissioner considers  
12 that action necessary to abate an imminent threat to a  
13 sensitive geologic area or to the success of groundwater  
14 remedial measures, including restoration of water supplies.

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16 **Sec. 7. 38 MRSA §569-B, sub-§6**, as enacted by PL 1991, c. 817,  
17 §26, is amended to read:

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19 **6. Reimbursements to fund.** The commissioner shall seek  
20 recovery for the use of the fund of all sums expended from the  
21 fund, including overdrafts, for the purposes described in  
22 subsection 5, paragraphs B, D, E, G and G I, or for other damage  
23 incurred by the State, in connection with a prohibited discharge,  
24 including interest computed at 15% a year from the date of  
25 expenditure, unless the commissioner finds the amount involved  
26 too small or the likelihood of success too uncertain. Requests  
27 for reimbursement to the fund if not paid within 30 days of  
28 demand must be turned over to the Attorney General for collection.

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30 **Emergency clause.** In view of the emergency cited in the  
31 preamble, this Act takes effect when approved.

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34 **SUMMARY**

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36 This bill accomplishes the following:

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38 1. It clarifies the authority of the Finance Authority of  
39 Maine to make loans and grants to upgrade the condition of  
40 aboveground oil storage tanks; and

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42 2. It authorizes expenditures from the Ground Water Oil  
43 Clean-up Fund to prevent accidental discharges from aboveground  
44 oil storage tanks and requires the Commissioner of Environmental  
45 Protection to seek reimbursement of such expenditures.  
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