

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

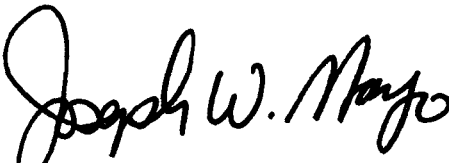
No. 1625

H.P. 1140

House of Representatives, March 2, 1999

**An Act to Clarify Certain Laws Administered by the Department of
Environmental Protection, Bureau of Remediation and Waste
Management.**

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


JOSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator: NUTTING of Androscoggin.

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

2
4 **Sec. 1. 38 MRSA §551, sub-§4-A** is enacted to read:

6 **4-A. Penalty for late payment of fees.** Fees assessed under
8 subsection 4 are due to the department on or before the last day
10 of the month immediately following the month in which the oil was
12 transferred or first transported in State. Licensees or
14 registrants who fail to pay the fee by that date shall pay an
16 additional amount equal to 10% of the amount assessed under
18 subsection 4.

20 **Sec. 2. 38 MRSA §564, sub-§2-A, ¶H**, as amended by PL 1993, c.
22 732, Pt. A, §2, is further amended to read:

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

28 (1) Unexplained differences in daily inventory
30 reconciliation values that, over a 30-day period,
32 exceed 1.0% of the product throughput or 200 gallons,
34 whichever is less;

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

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

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

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

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

78 **Sec. 3. 38 MRSA §566-A, sub-§4**, as amended by PL 1991, c. 817,
80 §20, is further amended to read:

2 **4. Commissioner role.** If the owner of an underground oil
4 storage facility or tank fails to properly abandon the facility
6 or tank within a reasonable time period, the commissioner may
8 undertake the abandonment. The commissioner shall collect any
10 reimbursement due the Ground Water Oil Clean-up Fund in
12 accordance with section 569-A or 569-B. Costs incurred by the
14 commissioner to undertake the abandonment are a lien against the
16 real estate of the owner as provided under section 569-A,
18 subsection 10-A and section 569-B, subsection 6-A.

12 **Sec. 4. 38 MRSA §569-A, sub-§5-A** is enacted to read:

14 **5-A. Penalty for late payment of fees.** Fees assessed under
16 subsection 5, paragraph A are due to the department on or before
18 the last day of the month immediately following the month in
20 which the oil was transferred or first transported in Maine.
Licensees or registrants who fail to pay the fee by that date
shall pay an additional amount equal to 10% of the amount
assessed under subsection 5.

22 **Sec. 5. 38 MRSA §569-A, sub-§10-A,** as enacted by PL 1997, c.
24 364, §34, is amended to read:

26 **10-A. Lien.** All costs incurred by the State in the
28 removal, abatement and remediation of a prohibited discharge of
30 oil from an aboveground or underground storage facility and all
32 costs incurred by the State in the abandonment of an underground
34 oil storage facility or tank under section 566-A, subsection 4
36 are a lien against the real estate of the responsible party. For
a responsible party determined eligible for coverage under
section 568-A, subsection 1, the lien is for the amount of any
unpaid deductible assigned under section 568-A, subsection 2 or
for eligible clean-up costs and 3rd-party damage claims above
\$1,000,000.

38 A certificate of lien signed by the commissioner must be sent by
40 certified mail to the responsible party prior to being recorded
42 and may be filed in the office of the clerk of the municipality
44 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
lien must include a description of the real estate, the amount of
the lien and the name of the owner as grantor.

46 When the amount for which a lien has been recorded under this
48 subsection has been paid or reduced, the commissioner, upon
50 request by any person of record holding interest in the real
52 estate that is the subject of the lien, shall issue a certificate
discharging or partially discharging the lien. The certificate
must be recorded in the registry in which the lien was recorded.
Any action of foreclosure of the lien must be brought by the

2 Attorney General in the name of the State in the Superior Court
for the judicial district in which the real estate subject to the
lien is located.

4
6 **Sec. 6. 38 MRSA §569-B, sub-§4-A** is enacted to read:

8 4-A. Penalty for late payment of fees. Fees assessed under
9 subsection 4 are due to the department on or before the last day
10 of the month immediately following the month in which the oil was
11 transferred. Licensees who fail to pay the fee by that date
12 shall pay an additional amount equal to 10% of the amount
13 assessed under subsection 4.

14 **Sec. 7. 38 MRSA §569-B, sub-§6-A**, as enacted by PL 1997, c.
15 364, §35, is amended to read:

16 **6-A. Lien.** All costs incurred by the State in the removal,
17 abatement and remediation of a prohibited discharge of oil from
18 an aboveground or underground storage facility and all costs
19 incurred by the State in the abandonment of any underground oil
20 storage facility or tank under section 566-A, subsection 4 are a
21 lien against the real estate of the responsible party.

22
23 A certificate of lien signed by the commissioner must be sent by
24 certified mail to the responsible party prior to being recorded
25 and may be filed in the office of the clerk of the municipality
26 in which the real estate is located. The lien is effective when
27 the certificate is recorded with the registry of deeds for the
28 county in which the real estate is located. The certificate of
29 lien must include a description of the real estate, the amount of
30 the lien and the name of the owner as grantor.

31
32 When the amount for which a lien has been recorded under this
33 subsection has been paid or reduced, the commissioner, upon
34 request by any person of record holding interest in the real
35 estate that is the subject of the lien, shall issue a certificate
36 discharging or partially discharging the lien. The certificate
37 must be recorded in the registry in which the lien was recorded.
38 Any action of foreclosure of the lien must be brought by the
39 Attorney General in the name of the State in the Superior Court
40 for the judicial district in which the real estate subject to the
41 lien is located.

42
43 **Sec. 8. 38 MRSA §570-E**, as enacted by PL 1985, c. 496, Pt. A,
44 §14, is amended to read:

45
46 Rules adopted by the board under this subchapter shall must
47 be submitted for review by the joint standing committee of the
48 Legislature having jurisdiction over energy and natural resources
49 ~~and, until December 1, 1987, to the joint standing committee of~~
50 ~~the Legislature having jurisdiction over audit and program review~~
51 matters. In reviewing the rules promulgated adopted by the board

2 under this subchapter, ~~these legislative committees shall the~~
3 committee must be guided by the provisions of Title 5, chapter
4 377-A.

5 **Sec. 9. 38 MRSA §570-K, sub-§3**, as amended by PL 1997, c. 624,
6 §8, is further amended to read:

7 **3. Underground piping installation.** All underground
8 piping, whether replacement or new, associated with an
9 aboveground oil storage facility must be installed, operated,
10 maintained and removed, in accordance with sections 564, 565 and
11 566-A and all rules adopted by the board pursuant to sections
12 564, 565 and 566-A.

13 ~~A. In accordance with section 564 or other applicable~~
14 ~~design, installation, closure and removal rules adopted by~~
15 ~~the board, and~~

16 ~~B. By persons certified by the Board of Underground Storage~~
17 ~~Tank Installers under Title 32, chapter 104-A.~~

18 **Sec. 10. 38 MRSA §1291, sub-§17-C**, as enacted by PL 1997, c.
19 624, §11, is amended to read:

20 **17-C. Lead inspection.** "Lead inspection" means a
21 surface-by-surface investigation assessment to determine the
22 presence of lead-based paint.

23 **Sec. 11. 38 MRSA §1303-C, sub-§42**, as enacted by PL 1989, c.
24 585, Pt. E, §4, is amended to read:

25 **42. Waste oil.** "Waste oil" means a ~~petroleum--based~~
26 petroleum-based or synthetic oil which ~~that~~, through use or
27 handling, has become unsuitable for its original purpose due to
28 the presence of impurities or loss of original properties. Waste
29 oil which ~~that~~ exhibits hazardous wastes characteristics, or
30 which has been contaminated with hazardous wastes in excess of
31 quantities normally occurring in waste oil, ~~shall be~~ is subject
32 to the provisions of this chapter dealing with hazardous wastes.

33 **Sec. 12. 38 MRSA §1310-F, sub-§2, ¶¶E and F** are enacted to
34 read:

35 E. A municipality is not eligible for reimbursement of
36 costs associated with remediation of a landfill licensed on
37 or after June 29, 1987.

38 F. A municipality is not eligible for reimbursement of
39 remediation costs related to any threat posed by a municipal
40 landfill to wells or other structures constructed after
41 December 31, 1999.

2 ensure proper handling of all contaminated oils, regardless of
whether the oil is petroleum based or produced by synthesis;

4 8. Makes municipalities ineligible for reimbursement of
landfill closure and remediation costs associated with a landfill
6 licensed after the cost-share program was established, or for
remediation costs related to threats posed by the landfill to
8 structures built after December 31, 1999;

10 9. Provides for notice of the existence of a closed solid
waste landfill in real estate transactions involving the landfill
12 property; and

14 10. Corrects an error in the wording of the rule-making
authority for hazardous matter.
16