

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2437

H.P. 1731

House of Representatives, January 10, 2000

An Act to Revise the Funding of the Ground Water Oil Clean-up Fund.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DAIGLE of Arundel.

Cosponsored by Representatives: COWGER of Hallowell, MARTIN of Eagle Lake, McKEE of Wayne, Senators: LIBBY of York, NUTTING of Androscoggin.

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

2 **Sec. 1. 32 MRSA §10015, sub-§6** is enacted to read:

4 **6. Limitation of actions.** An action against a certified
6 person for any violation of this chapter must be commenced within
8 3 years after the cause of action accrues.

10 **Sec. 2. 38 MRSA §564, sub-§2-A, ¶H**, as amended by PL 1993, c.
12 732, Pt. A, §2, is further amended to read:

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

18 (1) Unexplained differences in daily inventory
20 reconciliation values that, over a 30-day period,
22 exceed 1.0% of the product throughput;

24 (2) Unexplained losses detected through statistical
26 analysis of inventory records;

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

32 (4) Failure of a tank or piping precision test,
34 hydrostatic test or other tank or piping tightness test
36 approved by the department; and

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

44 The rules may not require the reporting of a leak or
46 discharge of oil above ground of 10 gallons or less that
48 occurs on the-premises an impervious surface or is collected
50 in secondary containment, including, but not limited to,
spills, overfills and leaks, when those leaks or discharges
do not reach ground water or surface waters of the State and
are cleaned up within 24 hours of discovery, if a written
log is maintained at the facility or the owner's place of
business in this State. For each discharge the log must
record the date of discovery, its source, the general
location of the discharge ~~at--the--faeility~~, the date and
method of cleanup and the signature of the company or
facility owner or operator certifying the accuracy of the
log;

Sec. 3. 38 MRSA §568-A, sub-§2, ¶A, as amended by PL 1999, c.
531, Pt. A, §1 and affected by §2, is further amended to read:

A. Standard deductibles are as follows.

(1) For expenses related to a leaking underground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Number of underground storage facilities owned by the facility owner	Deductible
1	\$2,500
2-to-5	5,000
6-to-10	10,000
11-to-20	25,000
21-to-30	40,000
over-30	62,500
<u>2 to 10</u>	<u>5,000</u>
<u>over 10</u>	<u>10,000</u>

(2) For expenses related to a leaking aboveground oil storage facility, the deductible amount is determined in accordance with the following schedule:

Total aboveground oil storage capacity in gallons owned by the facility owner	Deductible
Less than 1,320	\$500
1,321-to-50,000	2,500
50,001-to-250,000	5,000
250,001-to-500,000	10,000
500,001-to-1,000,000	25,000
1,000,001-to-1,500,000	40,000
greater-than-1,500,000	62,500
<u>1,321 to 250,000</u>	<u>2,500</u>
<u>greater than 250,000</u>	<u>10,000</u>

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

Sec. 4. 38 MRSA §569-A, first ¶, as amended by PL 1995, c. 399, §9 and affected by §21, is further amended to read:

2 The Ground Water Oil Clean-up Fund is established to be used
3 by the department as a nonlapsing, revolving fund for carrying
4 out the purposes of this subchapter. The balance in the fund is
5 limited to ~~\$12,500,000~~ \$9,000,000. To this fund are credited all
6 registration fees, fees for late payment or failure to register,
7 penalties, transfer fees, reimbursements, assessments and other
8 fees and charges related to this subchapter. To this fund are
9 charged any and all expenses of the department related to this
10 subchapter, including administrative expenses, payment of
11 3rd-party damages covered by this subchapter, costs of removal of
12 discharges of oil and costs of cleanup of discharges from
13 aboveground and underground storage facilities, including, but
14 not limited to, restoration of water supplies and any obligations
15 of the State pursuant to Title 10, section 1024, subsection 1.
16 The fund may be used only for the purposes specified in this
17 subchapter and may not be diverted for any other use by the
18 department, the Governor or the Legislature. Any person who
19 proposes to enact or amend a law to allow use of the fund for a
20 purpose not specified in this subchapter must submit the proposal
21 to the Legislative Council and to the joint standing committee of
22 the Legislature having jurisdiction over natural resource matters
23 at least 30 days prior to any vote or public hearing on the
24 proposal. An appropriation or allocation of the fund for use
25 other than that specified in this subchapter is not authorized
26 unless the required submittals have been made in a timely manner
27 and the Legislature has approved the proposal by a 2/3 vote of
28 each body.

29 **Sec. 5. 38 MRSA §569-A, sub-§5, ¶A,** as amended by PL 1999, c.
30 505, Pt. A, §12, is further amended to read:

31 A. Until December 31, 2005, a fee is assessed of ~~38¢~~ 35¢
32 per barrel of gasoline; ~~19¢~~ 16¢ per barrel of refined
33 petroleum products and their by-products other than
34 gasoline, liquid asphalt and #6 fuel oil, including #2 fuel
35 oil, kerosene, jet fuel and diesel fuel; and ~~4¢~~ 3¢ per
36 barrel of #6 fuel oil. The fee is assessed on the first
37 transfer of those products by oil terminal facility
38 licensees, as defined in section 542, subsection 7, and on a
39 person required to register with the commissioner under
40 section 545-B who first transports oil into the State. The
41 fee is not assessed on petroleum products that are exported
42 from this State. These fees must be paid monthly on the
43 basis of records certified to the commissioner. This
44 subsection does not apply to waste oil transported into the
45 State in any motor vehicle that has a valid license issued
46 by the department for the transportation of waste oil
47 pursuant to section 1319-O and is subject to fees
48 established under section 1319-I.

49

2 **Sec. 6. 38 MRS §569-A, sub-§5, ¶D**, as amended by PL 1995, c.
399, §10 and affected by §21, is further amended to read:

4 D. When the fund balance reaches ~~\$12,500,000~~ \$9,000,000,
5 the collection of fees under paragraph A abates. When the
6 commissioner projects that the fund balance will reach
7 ~~\$12,500,000~~ \$9,000,000, the commissioner must provide a
8 15-day advance notice of the abatement to persons assessed
9 the fee under paragraph A. The ~~\$12,500,000~~ \$9,000,000 fund
10 limit may be exceeded to accept transfer fees assessed or
11 received after the 15-day notice has been issued. When the
12 fund balance is reduced to ~~\$10,000,000~~ \$7,000,000, the fees
13 assessed under paragraph A are reimposed. The commissioner
14 shall provide a 15-day advance notice of the reimposition of
15 those fees.

16 **Sec. 7. 38 MRS §569-A, sub-§8, ¶A**, as amended by PL 1999, c.
17 278, §2, is further amended to read:

18 A. Administrative expenses, personal services and equipment
19 costs of the department related to the administration and
20 enforcement of this subchapter, except that total
21 disbursements for personal services may not exceed
22 ~~\$2,250,000~~ \$1,600,000 per fiscal year, ~~multiplied--by--an~~
23 ~~annual-adjustment-factor-of-4% beginning in fiscal year 1999~~
24 adjusted on an annual basis according to the United States
25 Consumer Price Index established by the federal Department
26 of Labor, Bureau of Labor Statistics;

27 **Sec. 8. 38 MRS §569-A, sub-§8, ¶L**, as amended by PL 1997, c.
28 613, §2, is further amended to read:

29 L. Costs up to \$225,000 annually incurred by the Office of
30 the State Fire Marshal to implement the duties assigned to
31 the State Fire Marshal in this chapter and to provide
32 technical assistance to local fire departments regarding
33 petroleum storage, assessment and response;

34 **Sec. 9. 38 MRS §569-A, sub-§8, ¶M**, as enacted by PL 1997, c.
35 613, §3, is amended to read:

36 M. Sums up to \$250,000 annually in fiscal years 1998-99 and
37 1999-2000 only, to retrofit, repair or replace aboveground
38 oil storage tanks or facilities when the commissioner
39 determines that action necessary to abate an imminent threat
40 to a groundwater restoration project, a public water supply
41 or a sensitive geologic area, including coastal islands and
42 peninsulas. Money may not be disbursed from the fund for
43 the purposes of this paragraph until the department has

presented a plan for such disbursements to the Fund Insurance Review Board; and

Sec. 10. 38 MRSA §569-A, sub-§8, ¶N, as amended by PL 1999, c. 278, §3, is further amended to read:

N. Sums up to \$1,250,000 annually during the 2-year period commencing July 1, 1998 and ending June 30, 2000 to distribute to community action agencies as defined in Title 22, section 5321 for loans and grants to retrofit, repair or replace aboveground and underground oil storage tanks and associated piping at single-family residences. Money may not be disbursed from the fund for the purposes of this paragraph until the department has presented a plan for such disbursements to the Fund Insurance Review Board. A community action agency shall administer the funds in accordance with program operating standards, including the allocation formula established by the Maine State Housing Authority for its weatherization program; and

Sec. 11. 38 MRSA §569-A, sub-§8, ¶O is enacted to read:

O. Costs up to \$180,000 annually incurred by the Oil and Solid Fuel Board to inspect home heating oil tanks and provide technical assistance to local fire departments regarding aboveground oil storage facilities.

SUMMARY

This bill enacts a statute of limitations of 3 years on actions against certified underground oil storage tank installers.

The bill allows for the cleanup and recording of minor leaks or spills of oil from underground oil storage facilities and tanks without reporting the leak or spill to the Department of Environmental Protection under certain conditions.

The bill changes the standard deductible amounts for coverage by the Ground Water Oil Clean-up Fund for expenses related to leaking underground oil storage facilities and leaking aboveground oil storage facilities.

The bill reduces the cap on the Ground Water Oil Clean-up Fund from \$12,500,000 to \$9,000,000 and reduces the fees assessed on each barrel of gasoline, refined petroleum products and #6 fuel oil to fund the Ground Water Oil Clean-up Fund.

The bill limits to \$1,600,000 per fiscal year the amount of money that may be disbursed from the Ground Water Oil Clean-up

2 Fund for personal services costs of the Department of
Environmental Protection and authorizes that amount to be
4 adjusted annually according to the United States Consumer Price
Index rather than increasing it by 4% each year. It also limits
6 to \$225,000 annually the amount that may be disbursed from the
fund for costs incurred by the State Fire Marshal's office and
8 authorizes that money to be used to provide technical assistance
to local fire departments regarding petroleum storage, assessment
and response. The bill also authorizes disbursements from the
10 fund in an amount up to \$180,000 annually for costs incurred by
the Oil and Solid Fuel Board to inspect home heating oil tanks
12 and provide technical assistance to local fire departments
regarding aboveground oil storage facilities.