

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1225, L.D. 1666, Bill, "An Act to Improve the Inspection and Maintenance of Underground Oil Storage Tanks"

Amend the bill in section 11 in subsection 6 by striking out all of paragraph A and inserting in its place the following:

'A. Pass a written or oral examination prepared by the board or such other exam as the board may deem equivalent that demonstrates the applicant's understanding of the following:

(1) The underground oil storage tank requirements of Title 38, chapter 3, subchapter II-B;

(2) Any rules regarding underground oil storage tanks adopted pursuant to Title 38, chapter 3, subchapter II-B by the Board of Environmental Protection;

(3) Any regulations regarding underground oil storage promulgated by the federal Environmental Protection Agency; and

(4) Any technical concepts necessary to understand and implement state and federal laws, rules and regulations regarding underground oil storage tanks;'

Further amend the bill by striking out all of section 17 and inserting in its place the following:

'Sec. 17. 38 MRSA §563, sub-§9 is enacted to read:

9. Annual compliance inspection. The owner of an

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2 underground oil storage facility is responsible for ensuring that
3 each underground oil storage tank and associated piping at the
4 facility are inspected annually for compliance with the
5 requirements of this subchapter and any rules adopted under this
6 subchapter and the requirements for gasoline vapor control in
7 rules adopted under section 585-A. The owner shall correct or
8 arrange for correction of any deficiencies detected during the
9 inspection as necessary to bring the facility into compliance
10 with these requirements.

11 A. The owner of an underground oil storage facility shall
12 submit annual inspection results to the department on or
13 before July 1, 2003 and on or before July 1st annually
14 thereafter. The results must be recorded on a form provided
15 by the department and must include a certification
16 statement, signed by an underground oil storage tank
17 inspector or underground oil storage tank installer
18 certified by the Board of Underground Oil Tank Installers
19 under Title 32, chapter 104-A that each tank and associated
20 piping have been inspected and any deficiencies discovered
21 during the inspection have been corrected.

22 B. In addition to other enforcement actions allowed under
23 state law, the commissioner may issue an administrative
24 order after providing a notice of violation for failure to
25 comply with the requirement of this subsection and after
26 providing a reasonable opportunity to correct the
27 violation. The administrative order may include, but is not
28 limited to, a requirement that the owner or operator of an
29 underground oil storage facility cease deliveries of oil to,
30 and operation of, the underground oil storage tank and
31 associated piping that are the subject of the violation
32 until the violation has been corrected.

33 C. Service of the commissioner's administrative order under
34 paragraph B must be made by hand delivery by an authorized
35 representative of the department or by certified mailing,
36 return receipt requested.

37 D. The person to whom the administrative order under
38 paragraph B is directed shall comply immediately or within
39 the time period specified in the order. That person may
40 appeal the order to the board by filing a written petition
41 within 5 working days after receipt of the order. Within 15
42 working days after receipt of the petition, the board shall
43 hold a hearing on the matter. All witnesses at the hearing
44 must be sworn. Within 7 working days after the hearing, the
45 board shall make findings of fact and shall continue, revoke
46 or modify the administrative order. The decision of the
47 board shall be final.

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2 board may be appealed to the Superior Court in accordance
3 with Title 5, chapter 375, subchapter VII.'

4 Further amend the bill in section 18 by striking out all of
5 subsection 1-D and inserting in its place the following:

6
7 '1-D. Prohibition on delivery. Effective May 1, 2002, a
8 person may not deliver oil to an underground oil storage tank
9 identified by the department as in violation of subsection 1 or
10 1-A through the publication of a list of such nonconforming
11 tanks. The department may revise the list as new information
12 becomes available and shall take reasonable steps, such as
13 targeted mailings and posting of information on the Internet, to
14 disseminate the list of nonconforming tanks to persons in the oil
15 delivery business.'

16
17 Further amend the bill by inserting at the end before the
18 summary the following:

19
20
21 **FISCAL NOTE**

22
23 Allowing the Underground Oil Storage Replacement Fund within
24 the Finance Authority of Maine to be used for providing financial
25 assistance for substantial tank repairs may result in increased
26 disbursements from the fund. The amounts can not be determined
27 at this time.

28
29 The Department of Environmental Protection will incur some
30 minor additional costs to administer certain enforcement actions
31 pertaining to underground oil storage tanks.'

32
33 **SUMMARY**

34
35 This amendment makes the following changes to the bill:

36
37 1. It removes the bill provision that prohibits oil dealers
38 from filling an underground oil storage tank that has not been
39 inspected in accordance with state law;

40
41 2. It authorizes the Department of Environmental Protection
42 to take administrative enforcement action against the owner and
43 operator of an underground oil storage tank if the tank has not
44 been inspected as required under state law or repaired as
45 necessary to correct any deficiencies discovered during the
46 inspection; and

47
48 3. It prohibits oil dealers from filling a nonconforming
49 underground oil storage tank, such as one that is not resistant
50

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2 to corrosion, provided the tank appears on a list of
nonconforming tanks published by the department.

4 4. It also adds a fiscal note.