

MAINE STATE LEGISLATURE

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MAJORITY
NATURAL RESOURCES

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

COMMITTEE AMENDMENT "A" to H.P. 1513, L.D. 2016, Bill, "An Act to Facilitate Compliance with Spill Prevention Requirements and Authorize Reimbursement for Certain Oil Spill Remediation Expenses"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1999, c. 278, §2, is further amended to read:

A. Administrative expenses, personal services and equipment costs of the department related to the administration and enforcement of this subchapter, except that total disbursements for personal services may not exceed \$2,250,000 \$2,900,000 per fiscal year, multiplied by an annual adjustment factor of 4% beginning in fiscal year 1999 2002-03;

Sec. 2. 38 MRSA §570-K, sub-§4, as enacted by PL 1993, c. 363, §17 and affected by §21, is amended to read:

4. Exemption. The following aboveground oil storage facilities are exempt from the requirements of this--section subsections 2 and 3:

A. Facilities or portions of facilities that are used exclusively for the storage of #2 and other home heating oil and consist of an individual tank of 660 gallons or less capacity or an aggregate tank capacity of 1320 gallons or less; and

2 B. Facilities containing only liquefied petroleum gas or
liquefied natural gas.

4 **Sec. 3. 38 MRSA §570-K, sub-§5** is enacted to read:

6 **5. Spill prevention and control.** An aboveground oil
8 storage facility used in the marketing and distribution of oil to
10 others must be operated in compliance with the federal
12 requirements for the preparation and implementation of spill
14 prevention control and countermeasure plans under 40 Code of
16 Federal Regulations, 112 (2001). Failure to comply with those
18 federal requirements constitutes a violation of this Title. If
20 the department believes that a facility's plan does not satisfy
22 those federal requirements, the department shall request an
opinion from the United States Environmental Protection Agency as
to the legal adequacy of the plan and any amendment necessary to
bring the facility into compliance with those federal
requirements. The department shall prepare educational and
technical materials for use by facilities affected by this
subsection. This subsection is repealed October 1, 2005.

24 **Sec. 4. Report.** The Commissioner of Environmental Protection
26 shall report to the joint standing committee of the Legislature
28 having jurisdiction over natural resources matters by January 15,
30 2005 on all activities undertaken by the Department of
32 Environmental Protection under the provisions of the Maine
34 Revised Statutes, Title 38, section 570-K, subsection 5. That
36 report must include the number of facilities inspected under that
38 subsection; the number of spill prevention and control and
40 countermeasure plans reviewed by the department under that
42 subsection; the number, nature and result of any written
communications submitted to the United States Environmental
Protection Agency pursuant to that subsection; the number and
result of all enforcement actions taken by the department for
violations of that subsection; and an overview of the educational
and technical assistance efforts undertaken by the department
under that subsection. That report must also include a
qualitative assessment of the department's effectiveness in
implementing that subsection, including an assessment by the
regulated community of the department's performance under that
subsection.

44 **Sec. 5. Authority to report out legislation.** The joint standing
46 committee of the Legislature having jurisdiction over natural
48 resources matters may report out legislation to the First Regular
Session of the 122nd Legislature on any matter pertaining to the
State's enforcement of federal standards pertaining to the
preparation and implementation of spill prevention control and

countermeasure plans under the Maine Revised Statutes, Title 38, section 570-K, subsection 5.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management

Initiative: Allocates funds to cover additional personal services costs for positions funded by the Ground Water Oil Clean-up Fund.

Other Special Revenue Funds	2001-02	2002-03
Personal Services	\$0	\$259,303

Remediation and Waste Management

Initiative: Allocates funds for the costs of contracting for consulting services needed to audit for compliance with requirements for the preparation and maintenance of aboveground oil storage facilities.

Other Special Revenue funds	2001-02	2002-03
All Other	\$0	\$12,500

ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS

	2001-02	2002-03
OTHER SPECIAL REVENUE FUNDS	\$0	\$271,803
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$271,803'

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

FISCAL NOTE

2002-03

APPROPRIATIONS/ALLOCATIONS

Other Funds	\$271,803
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The Governor's proposed supplemental, "Part 2," budget includes \$66,130 in fiscal year 2002-03 for one additional Environmental Specialist III position needed for spill prevention for aboveground oil storage facilities.

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Increasing the cap on personal services costs paid by the Ground Water Oil Clean-up Fund will allow the fund to pay for additional salary costs incurred by collective bargaining agreements. Consequently, the Remediation and Waste Management program within the Department of Environmental Protection will require an Other Special Revenue funds allocation of \$259,303 in fiscal year 2002-03 to cover increased personal services costs of personnel whose salaries are paid out of the Ground Water Oil Clean-up Fund.

The Remediation and Waste Management program will also require an Other Special Revenue funds allocation of \$12,500 in fiscal year 2002-03 for the costs of contracting for consulting services needed to audit for compliance with requirements for the preparation and maintenance of aboveground oil storage facilities. The costs for these services will increase to \$25,000 in fiscal year 2003-04 and for each year thereafter.

The Department of Environmental Protection will incur some minor additional costs to submit a required report to the Legislature. These costs can be absorbed within the department's existing budgeted resources.'

SUMMARY

This amendment eliminates provisions in the bill pertaining to changes to the chemical inventory reporting form submitted annually to the Maine Emergency Response Commission and amends the bill to limit the Department of Environmental Protection's authority to enforce federal oil spill prevention, or "SPCC," requirements to gas stations and bulk plants operated by oil distributors. The amendment sunsets the provisions relating to the Department of Environmental Protection's ability to enforce federal SPCC requirements on October 1, 2005.

The amendment also removes provisions in the bill proposing changes to the Ground Water Oil Clean-up Fund and increases the personal services cap on that fund from \$2,250,000 per year to \$2,900,000.

The amendment also requires the Commissioner of Environmental Protection to report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2005 on the Department of Environmental Protection's enforcement of federal SPCC requirements required in the Maine Revised Statutes, Title 38, section 570-K, subsection 5. That report is to include the number of facilities inspected under that subsection; the number

2 of spill prevention and control and countermeasure plans reviewed
by the department under that subsection; the number, nature and
4 result of any written communications submitted to the United
States Environmental Protection Agency pursuant to that
6 subsection; the number and result of all enforcement actions
taken by the department for violations of that subsection; and an
8 overview of the educational and technical assistance efforts
undertaken by the department under that subsection. That report
10 must also include a qualitative assessment of the department's
effectiveness in implementing that subsection, including an
12 assessment by the regulated community on the department's
performance under that subsection.

14 The amendment also allows the joint standing committee of
the Legislature having jurisdiction over natural resources
16 matters to report out legislation to the First Regular Session of
the 122nd Legislature on any matter pertaining to the State's
18 enforcement of federal SPCC requirements.

20 The amendment also adds an appropriations and allocations
section and a fiscal note to the bill.