

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 271

S.P. 91

In Senate, January 18, 2005

An Act To Allow Counties To Recover the Cost of Cleaning Up Hazardous Spills

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COWGER of Kennebec.
Cosponsored by Representative KOFFMAN of Bar Harbor and
Senator: ANDREWS of York, Representatives: McFADDEN of Dennysville, SAMPSON of
Auburn, SCHATZ of Blue Hill, THOMPSON of China.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 38 MRSA §1318-A**, as amended by PL 1991, c. 817, §33,
5 is further amended to read:

6 **§1318-A. Recovery by State, counties and municipalities for**
7 **expenditures for removal of discharges**

8
9 **1. Responsible party.** The responsible party or the person
10 causing the discharge is liable for all acts and omissions of its
11 servants and agents ~~which~~ that are committed within the course
12 and scope of their employment.

13 **2. State, counties and municipalities to recover for**
14 **expenditures for removal.** Any person who permits, causes or is
15 responsible for a prohibited discharge shall reimburse the State,
16 counties and municipalities for all costs incurred, including
17 personnel costs, in removing the discharge, including costs for
18 ensuring public safety. Funds recovered under this section must
19 be deposited to the account from which they were expended.
20 Requests from the State for reimbursement, if not paid within 30
21 days of demand, may be turned over to the Attorney General for
22 collection or may be submitted to a collection agency or agent or
23 an attorney retained by the department with the approval of the
24 Attorney General pursuant to Title 5, section 191, or, for county
25 or municipal cost, to the District Attorney for collection.

26
27 In any suit to enforce claims of the State, a county or a
28 municipality under this section, it is not necessary for the
29 State, county or -a- municipality to plead or prove negligence in
30 any form or manner on the part of the person causing, permitting
31 or responsible for the discharge. The State, county or
32 municipality need only plead and prove the fact of the prohibited
33 discharge and that the discharge occurred while the hazardous
34 matter was in the custody or control of the person causing,
35 permitting or responsible for the discharge.

36
37
38 **SUMMARY**

39
40 This bill entitles counties to reimbursement for removal
41 costs associated with prohibited discharges of hazardous
42 materials.