

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1768

S.P. 685

In Senate, December 30, 2005

An Act To Prevent Motor Fuel Spills from Aboveground Storage Tanks That Have Underground Piping

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 28, 2005. Referred to the Committee on Natural Resources pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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 DUCHESNE of Hudson.

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

4 **Sec. 1. 38 MRSA §563**, as amended by PL 2001, c. 231, §17 and
c. 626, §§12 and 13, is further amended to read:

6 **§563. Registration and inspection of underground oil
storage tanks and piping**

8 **1. Prohibition on unregistered tanks.** The following
10 prohibition on unregistered tanks applies.

12 A. A person may not install, or cause to be installed, a
14 new or replacement underground oil storage facility without
16 first having registered the facility with the commissioner
18 in accordance with the requirements of subsection 2, and
20 having paid the registration fee in accordance with the
22 requirements of subsection 4, at least 10 business days
prior to installation. If compliance with this time
requirement is impossible due to an emergency situation, the
owner or operator of the facility at which the new or
replacement facility is to be installed shall inform the
commissioner as soon as the emergency becomes known.

24 The owner or operator shall make available a copy of the
26 facility's registration at that facility for inspection by
the commissioner and authorized municipal officials.

28 B. No person may operate, maintain or store oil in an
30 underground oil storage facility after May 1, 1986, unless
each underground oil storage tank at that facility is
32 registered with the commissioner.

34 **2. Information required for registration.** The owner or
operator of an underground oil storage facility shall provide the
36 commissioner with the following information on a form in
triplicate to be developed and provided by the commissioner; one
38 copy to be submitted to the commissioner, one copy to be promptly
submitted upon completion to the municipality and one copy to be
retained by the owner or operator:

40 A. The name, address and telephone number of the owner of
42 the underground oil storage tank to be registered;

44 B. The name, address and telephone number of the person
46 having responsibility for the operation of the tank to be
registered;

48 C. The location of the facility ~~as necessary to determine
if the facility meets the siting restrictions under section
50 563-G;~~

- 2 E. The size of the tank to be registered;
- 4 F. The type of tank or tanks and piping at the facility and
6 the type of product stored or contained in the tank or tanks
and piping;
- 8 G. For new, replacement or retrofitted facilities, the name
10 of the installer, the expected date of installation or
retrofit, the nature of any emergency pursuant to subsection
12 1, paragraph A, if applicable, and a description or plan
showing the layout of the facility or tank, including the
14 form of secondary containment, other forms of leak detection
or equipment to be installed pursuant to section 564,
16 subsection 1, paragraph A and, when applicable, the method
of retrofitting leak detection pursuant to section 564,
18 subsection 1 or 1-A;
- 20 H. For existing facilities and tanks, the best estimate of
the age and type of tank or tanks and underground piping at
22 the facility; and
- 24 I. Expiration For underground oil storage tanks, the
expiration date of tank manufacturer's warranty.

26 **3. Amended registration required.** The owner or operator of
an underground oil storage facility shall file an amended
28 registration form with the commissioner immediately upon any
change in the information required pursuant to subsection 2,
30 including any modifications to the facility or a change of
ownership. The board may establish, by rule, a late registration
32 period not to exceed 10 business days in duration. A fee may not
be charged for filing an amended registration.

34 **4. Registration fees.** The owner or operator of an
36 underground oil storage facility shall pay an annual fee to the
department of \$35 for each tank located at the facility, except
38 that single family homeowners are not required to pay a fee for a
tank at their personal residence. Annual payments must be paid
40 on or before January 1st of each calendar year.

42 **5. Penalty for failure to submit amended registration.** Any
person who has not submitted an amended registration form in
44 accordance with subsection 3 shall pay a late fee of \$100. This
does not preclude the commissioner from seeking civil penalties
46 from any person who fails to register a facility or tank.

48 **6. Providing notice.** Prior to the sale or transfer of any
real estate where an underground oil storage facility is located,
50 the owner of the real estate shall file a written notice with the

2 purchaser or transferee. The notice shall must disclose the
3 existence of the underground oil storage facility, its
4 registration number or numbers, the real estate where the
5 facility is located, whether or not the facility has been
6 abandoned in place pursuant to section 566-A and that the
7 facility is subject to regulation, including registration
8 requirements, by the department under this subchapter.

10 **7. Supplier notification requirement.** Any person who sells
11 a tank intended to be used as an underground oil storage tank
12 shall notify the purchaser in writing of the purchaser's
13 obligations under this section.

14 **8. Certification of proper installation.** Owners of new and
15 replacement facilities shall ensure that the installer provides
16 certification to the commissioner, within 30 days of completion
17 of installation, that the materials and methods used comply with
18 the applicable installation standards of this subchapter.

20 **9. Annual compliance inspection.** The owner of an
21 underground oil storage facility is responsible for ensuring that
22 each underground oil storage tank and associated piping at the
23 facility are inspected annually for compliance with the
24 requirements of this subchapter and any rules adopted under this
25 subchapter and the requirements for gasoline vapor control in
26 rules adopted under section 585-A. The owner shall correct or
27 arrange for correction of any deficiencies detected during the
28 inspection as necessary to bring the facility into compliance
29 with these requirements.

30
31 A. The owner of an underground oil storage facility shall
32 submit annual inspection results to the department on or
33 before July 1, 2003 and on or before July 1st annually
34 thereafter. The results must be recorded on a form provided
35 by the department and must include a certification
36 statement, signed by an underground oil storage tank
37 inspector or underground oil storage tank installer
38 certified by the Board of Underground Oil Tank Installers
39 under Title 32, chapter 104-A that each tank and associated
40 piping have been inspected and any deficiencies discovered
41 during the inspection have been corrected.

42
43 B. In addition to other enforcement actions allowed under
44 state law, the commissioner may issue an administrative
45 order after providing a notice of violation for failure to
46 comply with the requirement of this subsection and after
47 providing a reasonable opportunity to correct the
48 violation. The administrative order may include, but is not
49 limited to, a requirement that the owner or operator of an
50 underground oil storage facility cease deliveries of oil to,

2 and operation of, the underground oil storage tank and
associated piping that are the subject of the violation
4 until the violation has been corrected.

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

10 D. The person to whom the administrative order under
paragraph B is directed shall comply immediately or within
12 the time period specified in the order. That person may
appeal the order to the board by filing a written petition
14 within 5 working days after receipt of the order. Within 15
working days after receipt of the petition, the board shall
16 hold a hearing on the matter. All witnesses at the hearing
must be sworn. Within 7 working days after the hearing, the
18 board shall make findings of fact and shall continue, revoke
or modify the administrative order. The decision of the
20 board may be appealed to the Superior Court in accordance
with Title 5, chapter 375, subchapter VII 7.

22 **10. Aboveground oil storage tanks with underground piping.**

24 An owner of an aboveground oil storage tank with underground
piping is subject to the requirements of this subsection.

26 A. Effective January 1, 2007, a person may not store motor
fuel in an aboveground oil storage facility that has
28 underground piping without first having registered the
facility with the commissioner in the same manner as is
30 required of underground oil storage facilities under
subsections 2 to 5.

34 B. Prior to the sale or transfer of an aboveground oil
storage tank that has underground piping, the owner shall
36 notify the purchaser or transferee in writing of the
existence of the underground piping and the requirement that
38 the tank be registered with the commissioner if the tank
will be used to store motor fuel.

40 C. The owner of an aboveground oil storage tank used to
store motor fuel shall ensure that, within 30 days after
42 completion of installation of underground piping associated
with the tank, the installer certifies in writing to the
44 commissioner that the materials and methods used comply with
the applicable installation standards of this subchapter.

48 D. The owner of an aboveground oil storage tank used to
store motor fuel shall ensure that underground piping
46 associated with the tank is inspected annually for

2 compliance with the requirements of this subchapter and the
3 requirements for gasoline vapor control in rules adopted
4 under section 585-A. The owner shall submit annual
5 inspection results to the department on or before July 1,
6 2007 and on or before July 1st annually thereafter. The
7 results must be recorded on a form provided by the
8 department and must include a certification statement,
9 signed by an underground storage tank inspector or an
10 underground oil storage tank installer certified by the
11 Board of Underground Oil Tank Installers under Title 32,
12 chapter 104-A that the piping has been inspected and any
13 deficiencies discovered during the inspection have been
14 corrected. The requirements of this paragraph may be
15 enforced in the same manner as is provided for underground
16 oil storage facilities under subsection 9.

17 This subsection does not apply to tanks or piping at an oil
18 terminal facility as defined in section 542, subsection 7.

19 **Sec. 2. 38 MRS §570-K, sub-§3,** as amended by PL 1999, c. 334,
20 §8, is further amended to read:

21
22 **3. Underground piping installation.** All new and
23 replacement underground piping,--whether--replacement--or--new,
24 installed on or after June 24, 1991 associated with an
25 aboveground oil storage facility must be installed, operated,
26 maintained and removed in accordance with sections 564, 565 and
27 566-A and all rules adopted by the board pursuant to sections
28 564, 565 and 566-A. Effective January 1, 2011, this subsection
29 applies to underground piping installed before June 24, 1991 if
30 the piping is associated with an aboveground tank used to store
31 motor fuel.
32

33 SUMMARY

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36 The bill requires aboveground motor fuel storage tanks that
37 have underground piping to be registered with the Department of
38 Environmental Protection, assessed an annual \$35 registration fee
39 and inspected annually in the same manner as is currently
40 required for underground oil storage tanks. The bill also
41 requires that, beginning January 1, 2011, underground piping
42 installed at an aboveground motor fuel storage facility before
43 June 24, 1991 meet the same leak detection requirements that
44 apply to piping installed after that date.
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