

MAINE STATE LEGISLATURE

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Date: 5/22/19

NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 936, L.D. 1332, Bill, "An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund"

Amend the bill by striking out all of section 1.

Amend the bill by striking out all of sections 9 to 11.

Amend the bill by striking out all of section 15.

Amend the bill by striking out all of sections 17 to 31 and inserting the following:

Sec. 17. 38 MRSA §568-A, sub-§7, as amended by PL 2003, c. 245, §10, is further amended to read:

7. Repeal date. This section is repealed December 31, 2010 2015.

Sec. 18. 38 MRSA §568-B, sub-§3, as enacted by PL 2003, c. 245, §11, is amended to read:

3. Repeal date. This section is repealed December 31, 2010 2015.

Sec. 19. 38 MRSA §569-A, sub-§13, as amended by PL 2003, c. 245, §13, is further amended to read:

13. Repeal date. This section is repealed December 31, 2010 2015.

Sec. 20. 38 MRSA §569-B, sub-§8, as amended by PL 2003, c. 245, §14, is further amended to read:

8. Effective date. This section takes effect December 31, 2010 2015.

Sec. 21. 38 MRSA §570, first ¶, as affected by PL 2003, c. 245, §§20 and 21 and amended by PL 2007, c. 292, §§35 and 36, is repealed and the following enacted in its place:

The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims.

COMMITTEE AMENDMENT

R. 888

1 Accordingly, each responsible party is jointly and severally liable for all disbursements
 2 made by the State pursuant to section 569-A, subsection 8, paragraphs B, D, E, H and J,
 3 or other damage incurred by the State, except for costs found by the commissioner to be
 4 eligible for coverage under section 568-A. The term "other damages," as used in this
 5 paragraph, includes interest computed at 15% a year from the date of expenditure and
 6 damage for injury to, destruction of, loss of or loss of use of natural resources, the
 7 reasonable costs of assessing natural resources damage and the costs of preparing and
 8 implementing a natural resources restoration plan. The commissioner shall demand
 9 reimbursement of costs and damages paid by the department from state or federal funds
 10 as provided under section 569-A, subsection 10 except for amounts that are eligible for
 11 coverage by the fund under this subchapter. Payment must be made promptly by the
 12 responsible party or parties upon whom the demand is made. If payment is not received
 13 by the State within 30 days of the demand, the Attorney General may file suit in the
 14 Superior Court or the department may file suit in District Court and, in addition to relief
 15 provided by other law, may seek punitive damages as provided in section 568.
 16 Notwithstanding the time limits stated in this paragraph, neither a demand nor other
 17 recovery efforts against one responsible party may relieve any other responsible party of
 18 liability. This paragraph is repealed December 31, 2015.

19 **Sec. 22. 38 MRSA §570**, as affected by PL 2003, c. 245, §§20 and 21 and
 20 amended by PL 2007, c. 292, §§35 and 36, is further amended by adding after the first
 21 paragraph a new paragraph to read:

22 This paragraph takes effect December 31, 2015. The intent of this subchapter is to
 23 provide the means for rapid and effective cleanup and to minimize direct and indirect
 24 damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is
 25 jointly and severally liable for all disbursements made by the State pursuant to section
 26 569-B, subsection 5, paragraphs B, D, E and G or other damage incurred by the State,
 27 including interest computed at 15% a year from the date of expenditure, and damage for
 28 injury to, destruction of, loss of or loss of use of natural resources and the reasonable
 29 costs of assessing natural resources damage. The commissioner shall demand
 30 reimbursement of costs and payment of damages paid by the department from state or
 31 federal funds to be recovered under this section and payment must be made promptly by
 32 the responsible party or parties upon whom the demand is made. If payment is not
 33 received by the State within 30 days of the demand, the Attorney General may file suit in
 34 the Superior Court or the department may file suit in District Court and, in addition to
 35 relief provided by other law, may seek punitive damages as provided in section 568.
 36 Notwithstanding the time limits stated in this paragraph, neither a demand nor other
 37 recovery efforts against one responsible party may relieve any other responsible party of
 38 liability.

39 **Sec. 23. 38 MRSA §570-A, last ¶**, as amended by PL 2003, c. 245, §15, is
 40 further amended to read:

41 This section is repealed December 31, ~~2010~~ 2015.

42 **Sec. 24. 38 MRSA §570-B, last ¶**, as amended by PL 2003, c. 245, §16, is
 43 further amended to read:

44 This section is repealed December 31, ~~2010~~ 2015.

R. 056

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3. It strikes the provision in the bill that proposes to make costs incurred to implement a voluntary response action plan ineligible for coverage by the fund;

4. It strikes the provision in the bill that authorizes disbursements from the fund for personnel and equipment costs incurred in responding to and the removal of a discharge of oil if the costs are not paid by a responsible party;

5. It amends the bill to remove the proposed language relating to recovery by the Department of Environmental Protection of fund disbursements. This amendment also makes a technical correction to the format of the law governing liability for fund disbursements. The amendment repeals the current and future versions of the law and the confusing effective date provisions. This amendment enacts the same language in a manner that clarifies the effective date of each provision of law;

6. It strikes the provisions in the bill relating to the abandonment of aboveground oil storage tanks;

7. It adds a requirement for the Department of Environmental Protection to review the current framework for funding investigations and the cleanup of tank-related oil discharges at voluntary response action program sites and sites contaminated by discharges during the delivery of oil to an oil storage facility; and

8. It adds an appropriations and allocations section.

The amendment retains the provisions in the bill that:

1. Amend definitions;
2. Require the Board of Environmental Protection to adopt rules requiring operators of underground oil storage tanks used to store motor fuel or used in the marketing and distribution of oil to others to complete a department training program;
3. Authorize the use of restrictive covenants and other land use controls to minimize the risk of human exposure to residual contamination on property that has suffered an oil discharge; and
4. Deny coverage to a motor carrier for a discharge during the off-loading or on-loading of oil from or to a motor vehicle used to transport oil.

FISCAL NOTE REQUIRED
(See attached)



124th MAINE LEGISLATURE

LD 1332

LR 537(02)

An Act To Continue Coverage of Oil Clean-up Costs and Improve Administration of the Ground Water Oil Clean-up Fund

Fiscal Note for Bill as Amended by Committee Amendment "A"
 Committee: Natural Resources
 Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	(\$500,000)	(\$500,000)	(\$500,000)	(\$500,000)

Fiscal Detail and Notes

This bill includes an annual deallocation of \$500,000 from the Ground Water Oil Clean-up Fund. The provision to exclude motor carriers from coverage under the Fund is estimated to save \$500,000 annually. The sunset clause of December 31, 2010 is being extended to December 31, 2015. Additional costs to the Department of Environmental Protection associated with oil clean-up costs and improving the administration of the Ground Water Oil Clean-up Fund can be absorbed within existing resources.