

MAINE STATE LEGISLATURE

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Date: **5-18-11** MAJORITY

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ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
SENATE
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “**A**” to S.P. 210, L.D. 721, Bill, “An Act To Extend the Use of Underground Storage Tanks”

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

Sec. 1. 38 MRSA §564, sub-§5, as amended by PL 1997, c. 624, §3, is repealed and the following enacted in its place:

5. Mandatory facility replacement. Upon the expiration date of a manufacturer's warranty for a tank, the tank and its associated piping must be removed from service and properly abandoned in accordance with section 566-A, except that a double-walled tank may continue in service up to 10 years beyond the expiration of the warranty if:

A. During the year the warranty expires but on a date before the warranty expires, a precision test is conducted to determine the integrity of the tank. Results of the test conducted must be submitted to the commissioner by the facility owner; and

B. During the 5th to 10th years after the expiration of the warranty, a precision test is conducted annually to determine the integrity of the tank. Results of each test must be submitted to the commissioner by the facility owner.

This subsection does not apply until January 1, 2008 to a tank installed before December 31, 1985 that has been retrofitted to meet the requirements of subsections 1-A and 1-B.

Sec. 2. 38 MRSA §566-A, sub-§1, as amended by PL 2009, c. 501, §7, is further amended to read:

1. Abandonment. All underground oil storage facilities and tanks that have been, or are intended to be, taken out of service for a period of more than ~~12~~ 24 months must be properly abandoned by the owner or operator of the facility or tank or, if the owner or operator is unknown, dissolved or insolvent, by the current owner of the property where the facility or tank is located. All abandoned facilities and tanks must be removed, except where removal is not physically possible or practicable because the tank or other component of the facility to be removed is:

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- 1 A. Located beneath a building or other permanent structure;
- 2 B. Of a size and type of construction that it cannot be removed;
- 3 C. Otherwise inaccessible to heavy equipment necessary for removal; or
- 4 D. Positioned in such a manner that removal will endanger the structural integrity
- 5 of nearby tanks.

6 **Sec. 3. 38 MRSA §566-A, sub-§1-A**, as amended by PL 2009, c. 501, §8, is
7 further amended to read:

8 **1-A. Abandoned tanks brought back into service.** Underground oil storage tanks
9 and facilities that have been out of service for a period of more than ~~12~~ 24 months may
10 not be brought back into service without the written approval of the commissioner. The
11 commissioner may approve the return to service if the owner demonstrates to the
12 commissioner's satisfaction that:

- 13 A. The facility is in compliance with this subchapter and rules adopted pursuant to
14 this subchapter;
- 15 B. The underground oil storage tanks and piping have successfully passed testing as
16 directed by the commissioner;
- 17 C. The underground oil storage tanks and piping are constructed of fiberglass,
18 cathodically protected steel or other equally noncorrosive material approved by the
19 commissioner;
- 20 D. The facility has conforming suction or double-walled pressurized piping; and
- 21 E. The return of the facility to service does not pose an unacceptable risk to
22 groundwater resources. In determining if the facility poses an unacceptable risk to
23 groundwater resources, the commissioner may consider the age and maintenance
24 history of the storage tanks and piping, the number and consequences of past oil
25 discharges from the tanks and piping, the proximity of the facility to drinking water
26 supplies and the proximity of the facility to sensitive geologic areas.

27 The commissioner may not approve the return to service of a single-walled underground
28 oil storage tank that has been out of service for more than ~~12~~ 24 consecutive months.

29 **Sec. 4. Report to the Fund Insurance Review Board.** By October 1, 2015,
30 the Department of Environmental Protection shall report to the Fund Insurance Review
31 Board, under the Maine Revised Statutes, Title 38, section 568-B, data and associated
32 information related to all incidents of leaks or spills resulting from the exception to the
33 required replacement of underground oil storage tanks upon the expiration of a
34 manufacturer's warranty for double-walled underground oil storage tanks pursuant to
35 Title 38, section 564, subsection 5.

36 **Sec. 5. Rulemaking.** The Department of Environmental Protection shall amend its
37 rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to allow the
38 upgrading of secondary containment systems and related piping for underground oil
39 storage tanks. Rules adopted pursuant to this section are routine technical rules as
40 defined in Title 5, chapter 375, subchapter 2-A.'

SUMMARY

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The amendment replaces the bill. The bill provides that an underground oil storage tank for which the manufacturer's warranty has expired does not need to be removed from service and properly abandoned if the tank is tested in accordance with the provisions of the Maine Revised Statutes, Title 38, section 564, subsection 1-A. The amendment provides that a double-walled tank may continue in service up to 10 years beyond the expiration of the warranty if precision tests are undertaken to determine the integrity of the tank.

The amendment also extends from 12 months to 24 months the time period after which underground oil storage tanks taken out of service must be properly abandoned. It also prohibits single-walled underground oil storage tanks that have been out of service for a period of more than 24 months from being brought back into service and it prohibits double-walled underground oil storage tanks that have been out of service for a period of more than 24 months from being brought back into service without the written approval of the Commissioner of Environmental Protection.

The amendment also directs the Department of Environmental Protection to report to the Fund Insurance Review Board data and associated information related to incidents of leaks or spills resulting from the double-walled underground oil storage tank exception to the otherwise mandatory replacement upon the expiration of the manufacturer's warranty.

The amendment also directs the Department of Environmental Protection to amend its rules to allow the upgrading of secondary containment systems for underground oil storage tanks.

FISCAL NOTE REQUIRED
(See Attached)



Approved: 05/15/11 *mac*

125th MAINE LEGISLATURE

LD 721

LR 1219(02)

An Act To Extend the Use of Underground Storage Tanks

Fiscal Note for Bill as Amended by Committee Amendment "A" S-119

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Allowing double-walled underground storage tanks (USTs) to remain in service for up to ten years beyond warranty expiration if precision and integrity tests are performed, extending the time period during which USTs taken out of service must be properly abandoned from 12 to 24 months, directing the Department of Environmental Protection (DEP) to report incident data to the Fund Insurance Review Board and directing the DEP to make rules allowing upgrading of secondary containment systems for USTs will result in minor additional costs that the DEP can absorb within existing budgeted resources.