

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1434

H.P. 1055

House of Representatives, April 7, 2011

### **An Act To Streamline the Waste Motor Oil Disposal Site Remediation Program**

(EMERGENCY)

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative MARTIN of Eagle Lake.  
Cosponsored by Senator SAVIELLO of Franklin and  
Representative: DUCHESNE of Hudson, Senator: GOODALL of Sagadahoc.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** waste oil was discharged between 1953 and 1981 at 4 sites in Maine:  
4 Plymouth, Casco, Ellsworth and Presque Isle; and

5           **Whereas,** the 4 sites require significant cleanup, costing some \$30,000,000; and

6           **Whereas,** the costs of cleanup place an intolerable financial burden on businesses,  
7 municipalities, schools and state agencies throughout the State that contributed waste oil  
8 to one or more of the sites; and

9           **Whereas,** the public health, safety and welfare require that the sites be cleaned up  
10 expeditiously; and

11           **Whereas,** it is in the public interest to ensure the continued financial viability of the  
12 businesses, municipalities, schools and state agencies that contributed waste oil to one or  
13 more of the sites; and

14           **Whereas,** the Finance Authority of Maine has issued revenue bonds to partially fund  
15 the cost of the cleanup of these sites but revenues are insufficient to support additional  
16 bonds to fully resolve the sites; and

17           **Whereas,** a stakeholder group convened by the Department of Environmental  
18 Protection at the direction of the Legislature has developed a complete resolution to this  
19 problem that uses revenues more efficiently rather than increasing existing premiums;  
20 and

21           **Whereas,** immediate changes to the waste motor oil disposal site remediation  
22 program are necessary to implement these efficiencies; and

23           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
24 the meaning of the Constitution of Maine and require the following legislation as  
25 immediately necessary for the preservation of the public peace, health and safety; now,  
26 therefore,

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

28           **Sec. 1. 10 MRSA §963-A, sub-§47-B, ¶C,** as enacted by PL 2007, c. 464, §2, is  
29 repealed.

30           **Sec. 2. 10 MRSA §1020, sub-§1,** as amended by PL 2009, c. 213, Pt. KKK, §1,  
31 is further amended to read:

32           **1. Definitions.** As used in this subchapter, unless the context otherwise indicates,  
33 the following terms have the following meanings.

34           A. "Eligible person" means a person that is eligible, pursuant to section 1020-A, to  
35 have that person's share of response costs paid from the proceeds of revenue

1 obligation securities issued pursuant to this subchapter or is eligible to have that  
2 person's share of response costs paid from the fund as otherwise set forth in this  
3 subchapter.

4 ~~A-1. "Bulk motor vehicle oil" means all motor vehicle oil other than prepackaged~~  
5 ~~motor vehicle oil.~~

6 A-2. "Diesel engine ~~bulk motor vehicle~~ crankcase oil" means ~~diesel engine bulk~~  
7 ~~motor vehicle oil~~ that is classified for use in a diesel engine crankcase by meeting the  
8 performance requirements of the American Petroleum Institute CJ-4 beginning with  
9 CA standards and all preceding succeeding specifications under those standards,  
10 inclusive of all viscosity grades original equipment manufacturer-specific engine oils.

11 C. "Fund" means the Waste Motor Oil Revenue Fund established under subsection 2  
12 to be deposited with and administered by the authority.

13 C-1. "Gasoline engine ~~bulk motor vehicle~~ crankcase oil" means ~~gasoline engine bulk~~  
14 ~~motor vehicle oil~~ that is classified for use in a gasoline engine crankcase by meeting  
15 the performance requirements of the American Petroleum Institute SM, beginning  
16 with SA standards through the most current standards, inclusive of original  
17 equipment manufacturer-specific engine oils, and International Lubricant  
18 Standardization and Approval Committee ~~GF-4 GF-1~~ standards ~~and all preceding~~  
19 ~~specifications under those~~ through current standards, inclusive of all viscosity grades  
20 original equipment manufacturer-specific engine oils.

21 D. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection  
22 42.

23 F. "Motor vehicle oil" means any lubricating oil or other lubricant that is reclaimable  
24 and classified for use in an internal combustion engine or the transmission, gear box,  
25 hydraulic ~~reservoir~~ system, compressor or differential for a motor vehicle, including  
26 but not limited to natural, synthetic and rerefined motor oils, whether or not in retail  
27 containers.

28 G. "Motor vehicle oil dealer" means any person, firm or corporation engaged in the  
29 business of producing, packaging or otherwise preparing motor vehicle oil for  
30 market, or selling or distributing motor vehicle oil.

31 ~~H. "Prepackaged motor vehicle oil" means motor vehicle oil sold in a container with~~  
32 ~~a volume not in excess of 5 gallons.~~

33 **Sec. 3. 10 MRSA §1020, sub-§3**, as enacted by PL 2007, c. 464, §6, is amended  
34 to read:

35 **3. Application of fund.** Money in the fund must be applied to the payment of  
36 principal of, interest on ~~or~~, redemption of premiums on or other costs of revenue  
37 obligation securities issued pursuant to section 1020-A and may, in whole or in part, be  
38 pledged or transferred and deposited as security for those securities. Money in the fund  
39 not immediately needed to meet the obligations of the authority as provided for in this  
40 subsection may be invested in such a manner as permitted by law. Any reasonable costs  
41 incurred by the authority in administering this fund may be taken from the money in the  
42 fund.

1 Notwithstanding any provision of this subchapter to the contrary, money in the fund may  
2 not be transferred from the fund or otherwise applied except as expressly provided in this  
3 subsection unless:

4 A. All amounts required by the trust documents securing those revenue obligation  
5 securities to be transferred to the trustee or to a paying agent have been transferred  
6 during the same calendar year;

7 B. All costs incurred, or projected by the authority to be incurred, in administering  
8 the fund in that calendar year have been funded through the transfer of such amounts  
9 to the authority; and

10 C. The completion of the transfer or other application does not result in a balance in  
11 the fund of less than \$600,000.

12 **Sec. 4. 10 MRSA §1020, sub-§3-A** is enacted to read:

13 **3-A. Excess revenue; application.** By April 15th annually, the authority shall  
14 determine whether, as of the immediately preceding December 31st, the fund contained  
15 more than \$600,000, which is referred to in this subsection as "excess revenue." Excess  
16 revenue must be used to satisfy the following obligations in the following order each  
17 year, until the excess revenue is exhausted or the obligations have been satisfied,  
18 whichever comes first.

19 A. As the first obligation, an amount not to exceed \$65,000 per year for payments to  
20 eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available  
21 for reimbursement must be reported to the State Tax Assessor no later than April 15th  
22 annually.

23 B. As the 2nd obligation, but only until fully repaid, reimbursement of the remaining  
24 amount due to each responsible party at the waste motor oil disposal site in Plymouth  
25 pursuant to the determination made in section 1020-A, subsection 4 after application  
26 of the:

27 (1) Proceeds of revenue obligation securities;

28 (2) Amounts available from the Waste Oil Clean-up Fund pursuant to section  
29 1023-L, as determined by the authority; and

30 (3) Elimination of loan balances under the Plymouth Waste Oil Loan Program  
31 pursuant to section 1023-M, as determined by the authority.

32 This paragraph is repealed December 31, 2012.

33 C. As the 3rd obligation, but only until fully repaid, reimbursement to the Maine  
34 National Guard for response costs at the waste motor oil disposal site in Plymouth in  
35 an amount not to exceed \$41,778.49, notwithstanding that the Maine National Guard  
36 is not listed on the registry established by the authority pursuant to section 1020-A,  
37 subsection 7. This paragraph is repealed December 31, 2012.

38 D. As the 4th obligation, transfer of up to \$1,000,000 per year to the Uncontrolled  
39 Sites Fund established under Title 38, section 1364, subsection 6 until \$6,919,681.57  
40 has been transferred for response costs incurred by the Department of Environmental  
41 Protection at the waste motor oil disposal site.

1 E. As the 5th obligation, an additional reimbursement from the fund to eligible motor  
2 vehicle oil dealers pursuant to section 1020-C. The amount available for  
3 reimbursement under this paragraph must be reported to the State Tax Assessor no  
4 later than April 15th annually.

5 F. As the 6th obligation, notwithstanding the \$1,000,000 annual limit specified in  
6 paragraph D, an additional transfer of any remaining excess revenues to the  
7 Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until  
8 the amount specified in paragraph D is paid in full.

9 **Sec. 5. 10 MRSA §1020, sub-§6-A**, as amended by PL 2009, c. 213, Pt. KKK,  
10 §2, is repealed and the following enacted in its place:

11 **6-A. Premium.** In addition to any other tax or charge imposed under state or federal  
12 law, a premium is imposed on motor vehicle oil sold or distributed in the State as  
13 provided in this subsection. A motor vehicle oil dealer that makes the first sale or  
14 distribution of motor vehicle oil in the State shall pay the premium.

15 The premium is calculated as follows:

16 A. Diesel engine crankcase oil is subject to a premium of 35¢ per gallon;

17 B. Gasoline engine crankcase oil sold or distributed in a container with a volume of 5  
18 gallons or less is subject to a premium of 35¢ per gallon;

19 C. Gasoline engine crankcase oil sold or distributed in a container with a volume of  
20 more than 5 gallons is subject to a premium of \$1.10 per gallon; and

21 D. All motor vehicle oil other than diesel engine crankcase oil and gasoline engine  
22 crankcase oil that is sold or distributed in a container with a volume of 16 gallons or  
23 less is subject to a premium of 35¢ per gallon.

24 All premiums must be paid to the State Tax Assessor and are subject to the administrative  
25 provisions of Title 36, Parts 1 and 3 as though they were a sales tax liability. By the 20th  
26 day of each month, the State Tax Assessor shall notify the State Controller and the  
27 Treasurer of State of the amount of revenue attributable to the premium collected under  
28 this subsection in the previous month. When notified by the State Tax Assessor, the State  
29 Controller shall transfer that amount to the fund.

30 **Sec. 6. 10 MRSA §1020, sub-§8**, as enacted by PL 2007, c. 618, §13, is repealed.

31 **Sec. 7. 10 MRSA §1020-A, sub-§1, ¶A**, as enacted by PL 2007, c. 464, §6, is  
32 amended to read:

33 A. Pay the response costs of eligible persons, except that a revenue obligation  
34 security may not be issued after July 1, 2011 to fund the payments required by this  
35 paragraph;

36 **Sec. 8. 10 MRSA §1020-A, sub-§2**, as enacted by PL 2007, c. 464, §6, is  
37 amended to read:

38 **2. Payment of proceeds.** The authority shall pay proceeds of the revenue obligation  
39 securities to or on behalf of the responsible parties in accordance with subsection 4. ~~¶~~

1 ~~the extent that any responsible party receives or is eligible to receive proceeds of the~~  
2 ~~revenue obligation securities as reimbursement for expenses that party has paid through~~  
3 ~~the Plymouth Waste Oil Loan Program in section 1023-M, that party's obligations to the~~  
4 ~~authority must be repaid in full with the proceeds of the revenue obligation securities and~~  
5 ~~the authority is authorized to receive those proceeds directly.~~

6 **Sec. 9. 10 MRSA §1020-A, sub-§4, ¶A-1**, as enacted by PL 2009, c. 304, §1, is  
7 repealed.

8 **Sec. 10. 10 MRSA §1020-A, sub-§4, ¶B**, as amended by PL 2009, c. 304, §2, is  
9 further amended to read:

10 B. With respect to a waste motor oil disposal site, following the determinations made  
11 pursuant to paragraph A ~~or A-1~~, the authority shall issue a certificate of determination  
12 setting forth the amount of:

- 13 (1) The response costs paid or to be paid with respect to that waste motor oil  
14 disposal site;
- 15 (2) The eligible response costs with respect to that waste motor oil disposal site to  
16 be paid from the proceeds of revenue obligation securities; and
- 17 (3) The proceeds of the revenue obligation securities to be paid to or on behalf of  
18 the responsible parties.

19 **Sec. 11. 10 MRSA §1020-A, sub-§5**, as amended by PL 2009, c. 304, §§3 to 5,  
20 is further amended to read:

21 **5. Eligibility.** For purposes of this section, "person" means any natural person,  
22 corporation, partnership or other entity identified as a responsible party at a waste motor  
23 oil disposal site. The following persons that contributed waste motor oil to a waste motor  
24 oil disposal site and who have been designated by the Department of Environmental  
25 Protection or the United States Environmental Protection Agency as responsible parties  
26 with respect to any of the waste motor oil disposal sites are eligible to have their share of  
27 response costs paid from the proceeds of revenue obligation securities issued pursuant to  
28 this subchapter:

- 29 A. Those responsible parties that the Department of Environmental Protection or  
30 United States Environmental Protection Agency determines are insolvent, unlocated  
31 or defunct;
- 32 B. Those responsible parties that the Department of Environmental Protection or  
33 United States Environmental Protection Agency determines have a limited ability to  
34 pay;
- 35 C. Those responsible parties that the Department of Environmental Protection or  
36 United States Environmental Protection Agency determines are responsible for 110  
37 gallons or less of waste motor oil at a waste motor oil disposal site;
- 38 D. The State and any agencies, authorities, departments, boards, commissions or  
39 instrumentalities of the State or political subdivisions of the State;

1 E. All franchised new car and truck dealers licensed pursuant to Title 29-A, chapter  
2 9, subchapter 3 or the successors in interest of any such franchised new car or truck  
3 dealers. The Secretary of State shall certify to the authority those responsible parties  
4 that were licensed pursuant to Title 29-A, chapter 9, subchapter 3;

5 F. All used car and truck dealers licensed in accordance with Title 29-A, chapter 9,  
6 subchapter 3 or the successors in interest of any such used car and truck dealers. The  
7 Secretary of State shall certify to the authority those responsible parties that were  
8 licensed pursuant to Title 29-A, chapter 9, subchapter 3;

9 G. A person or its successor in interest that:

10 (1) Performed repairs at repair facilities located in this State on motor vehicles  
11 that are owned by 3rd parties;

12 (2) Is identified as qualified under this subsection by the potentially responsible  
13 party (PRP) group at the waste oil disposal site or, in the case when the response  
14 action was or will be undertaken by the State, by the Department of  
15 Environmental Protection; and

16 (3) Certifies to the authority under oath and subject to the provisions of Title  
17 17-A, section 451 that it is qualified under this subsection;

18 H. Any person or its successor in interest that performed repairs on its own fleet of  
19 motor vehicles, is identified by the potentially responsible party (~~PRP~~) group at the  
20 waste motor oil disposal site or, in the case when the response action was or will be  
21 undertaken by the State is identified by the Department of Environmental Protection,  
22 as qualified under this subsection and certifies to the authority under oath and subject  
23 to the provisions of Title 17-A, section 451 that it is qualified under this subsection.  
24 The motor vehicles at all pertinent times must have been registered, garaged and  
25 serviced in this State; and

26 I. Any person or its successor in interest that performed repairs, at repair facilities  
27 located in this State, on special equipment or special mobile equipment, as defined in  
28 Title 29-A, section 101, subsections 69 and 70, is identified by the potentially  
29 responsible party (~~PRP~~) group at the waste motor oil disposal site or, in the case  
30 when the response action was or will be undertaken by the State is identified by the  
31 Department of Environmental Protection, as qualified under this subsection and  
32 certifies to the authority under oath and subject to the provisions of Title 17-A,  
33 section 451 that it is qualified under this subsection.

34 Notwithstanding any provision of this subsection to the contrary, at the Ellsworth, Casco  
35 and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection  
36 51-E, paragraphs B, C and D, eligible persons include all responsible parties except those  
37 enumerated in subsection 6.

38 **Sec. 12. 10 MRSA §1020-A, sub-§9** is enacted to read:

39 **9. Liability releases and covenants at certain sites.** This subsection applies to the  
40 Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section  
41 963-A, subsection 51-E, paragraphs B, C and D and referred to in this subsection as "the



1 sites." Upon receipt by the Department of Environmental Protection of the first  
2 \$3,500,000 pursuant to section 1020, subsection 3-A, paragraphs D and F:

3 A. The Department of Environmental Protection or any other agency or  
4 instrumentality of the State may not sue or take administrative action against any  
5 responsible party at a waste motor oil disposal site under any state or federal statute  
6 or common law regarding response costs or environmental conditions related to the  
7 release, threatened release or presence of hazardous substances at or from any of the  
8 sites prior to the effective date of this paragraph, including, without limitation, past  
9 response costs, future response costs, oversight costs, natural resource damages and  
10 the cost of assessment;

11 B. The State, including all of its departments, agencies and instrumentalities, by and  
12 through the Attorney General, shall execute a release in favor of all eligible persons  
13 at the sites. The release must forever discharge and release all eligible persons from  
14 all claims, suits, actions, liabilities, causes of action, demands, costs, damages and  
15 expenses of any nature whatsoever, including, without limitation, past response costs,  
16 future response costs, oversight costs, natural resource damages and the cost of  
17 assessment, whether known or unknown, arising out of, directly or indirectly, a  
18 release, threatened release or presence of hazardous substances at or from the sites  
19 prior to the effective date of this paragraph; and

20 C. The eligible persons at the sites are protected from contribution actions or claims  
21 regarding those sites.

22 The State shall include a covenant not to sue and contribution protection in any consent  
23 decree or other settlement agreement entered into between the State and federal agencies  
24 related to recovery of the State's response costs at the sites.

25 **Sec. 13. 10 MRSA §1020-B, sub-§2**, as enacted by PL 2009, c. 213, Pt. KKK,  
26 §3, is amended to read:

27 **2. Funding report.** By February 15, 2010 and every year thereafter, the authority  
28 and the State Tax Assessor shall report the revenue collected pursuant to section 1020,  
29 subsection 6-A for the preceding calendar year. The report may be incorporated into the  
30 biennial report required under subsection 1. The joint standing committee of the  
31 Legislature having jurisdiction over natural resources matters shall determine, beginning  
32 in 2013 and every odd-numbered year thereafter, whether the premium imposed pursuant  
33 to section 1020, subsection 6-A may be reduced or eliminated in a manner that does not  
34 adversely affect the ability of the authority to provide for the full and timely payment of  
35 the principal of, interest on, redemption of premiums on or other costs of all revenue  
36 obligation securities issued pursuant to section 1020-A that remain outstanding as those  
37 costs become due or adversely affect the security for those revenue obligation securities  
38 and may submit legislation related to the determination and report required under this  
39 subsection.

40 **Sec. 14. 10 MRSA §1020-C** is enacted to read:

1 **§1020-C. Motor vehicle oil premium reimbursement**

2 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
3 following terms have the following meanings.

4 A. "Eligible dealer" means a motor vehicle oil dealer that has reported and paid the  
5 motor vehicle oil premium imposed under section 1020, subsection 6-A on motor  
6 vehicle oil sales or distributions.

7 B. "Eligible premium" means a premium that has been reported and paid by an  
8 eligible dealer to the State Tax Assessor on motor vehicle oil that was sold or  
9 distributed by that eligible dealer outside the State during the relevant reimbursement  
10 period.

11 C. "Reimbursement claim" means the value of all eligible premiums reported by an  
12 eligible dealer during a reimbursement year.

13 D. "Unreimbursed eligible premium" means a properly filed eligible premium that  
14 has not been reimbursed to the eligible dealer for current or prior year obligations.

15 **2. Annual application for reimbursement.** An eligible dealer shall submit a claim  
16 for reimbursement of eligible premiums on a form prescribed by the State Tax Assessor  
17 no later than March 31st annually. An application filed in 2011 or 2012 may include a  
18 reimbursement request for eligible premiums paid from October 1, 2009 to December 31,  
19 2011. Reimbursement claims submitted beginning in 2013 may be made only for eligible  
20 premiums paid in the immediately preceding calendar year. All applications for  
21 reimbursement must be made under penalties of perjury. For purposes of this subsection,  
22 an application for reimbursement is considered a return, as defined in Title 36, section  
23 111, subsection 4.

24 **3. Calculation of reimbursement.** Reimbursement of funds available in the fund is  
25 calculated according to this subsection.

26 A. Annually, no later than April 30th immediately following notification by the  
27 authority pursuant to section 1020, subsection 3-A, paragraphs A and E, the State Tax  
28 Assessor shall calculate the value of reimbursement claims. The State Tax Assessor  
29 shall provide reimbursement, as determined pursuant to paragraph B, to eligible  
30 dealers no later than the immediately following May 31st.

31 B. For any reimbursement year, the total amount reimbursed to an eligible dealer  
32 may not exceed that eligible dealer's unreimbursed eligible premiums. Priority is  
33 given to the oldest unreimbursed eligible premiums in succession until all eligible  
34 premiums have been reimbursed.

35 The amount of reimbursement for each eligible dealer is calculated as follows: The State  
36 Tax Assessor shall reimburse each eligible dealer for any reimbursement year an amount  
37 equal to a fraction, the numerator of which is the total amount of each eligible dealer's  
38 eligible premium and the denominator of which is the total amount of reimbursement  
39 claims for the same reimbursement year, multiplied by the amount determined as  
40 available by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E.  
41 Interest is not due on any reimbursement made to an eligible dealer pursuant to this  
42 subsection.

1           **4. Payment.** A reimbursement made in accordance with this section must be paid  
2 from the amount the authority reports to the State Tax Assessor pursuant to section 1020,  
3 subsection 3-A, paragraphs A and E.

4           **Sec. 15. 10 MRSA §1023-L,** as amended by PL 2007, c. 464, §§7 and 8, is  
5 repealed.

6           **Sec. 16. 10 MRSA §1023-M,** as amended by PL 2007, c. 479, §1 and affected by  
7 §2, is repealed.

8           **Sec. 17. 36 MRSA §112, sub-§8, ¶D,** as amended by PL 2009, c. 496, §2, is  
9 further amended to read:

10           D. Administration of the premium imposed on ~~bulk~~ motor vehicle oil ~~and~~  
11 ~~prepackaged motor vehicle oil~~ under Title 10, section 1020.

12           **Sec. 18. 36 MRSA §144, sub-§2, ¶A,** as enacted by PL 1997, c. 668, §10, is  
13 amended to read:

14           A. Subsection 1 does not apply in the case of premiums imposed pursuant to Title  
15 10, section 1020, subsection 6-A, sales and use taxes imposed by Part 3, estate taxes  
16 imposed by chapter 575, income taxes imposed by Part 8 and any other tax imposed  
17 by this Title for which a specific statutory refund provision exists.

18           **Sec. 19. 36 MRSA §191, sub-§2, ¶PP,** as corrected by RR 2009, c. 2, §107, is  
19 amended to read:

20           PP. The disclosure to the Department of Conservation of information contained on  
21 the commercial forestry excise tax return filed pursuant to section 2726, such as the  
22 landowner name, address and acreage, to facilitate the administration of chapter 367;  
23 ~~and~~

24           **Sec. 20. 36 MRSA §191, sub-§2, ¶QQ,** as reallocated by RR 2009, c. 2, §108, is  
25 amended to read:

26           QQ. The disclosure of registration, reporting and payment information to the  
27 Department of Agriculture, Food and Rural Resources necessary for the  
28 administration of Title 32, chapter 28-; and

29           **Sec. 21. 36 MRSA §191, sub-§2, ¶RR** is enacted to read:

30           RR. The disclosure to the Finance Authority of Maine of the cumulative value of  
31 eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C.

32           **Sec. 22. 36 MRSA §1752, sub-§14, ¶B,** as amended PL 2009, c. 625, §4 and  
33 affected by §§16 and 18 and c. 652, Pt. C, §8, is further amended to read:

34           B. "Sale price" does not include:

35               (1) Discounts allowed and taken on sales;

36               (2) Allowances in cash or by credit made upon the return of merchandise  
37 pursuant to warranty;

- 1 (3) The price of property returned by customers, when the full price is refunded
- 2 either in cash or by credit;
- 3 (4) The price received for labor or services used in installing or applying or
- 4 repairing the property sold, if separately charged or stated;
- 5 (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically
- 6 stated service charge, when that amount is to be disbursed by a hotel, restaurant
- 7 or other eating establishment to its employees as wages;
- 8 (6) The amount of any tax imposed by the United States on or with respect to
- 9 retail sales, whether imposed upon the retailer or the consumer, except any
- 10 manufacturers', importers', alcohol or tobacco excise tax;
- 11 (7) The cost of transportation from the retailer's place of business or other point
- 12 from which shipment is made directly to the purchaser, provided that those
- 13 charges are separately stated and the transportation occurs by means of common
- 14 carrier, contract carrier or the United States mail;
- 15 (8) The fee imposed by Title 10, section 1169, subsection 11;
- 16 (9) The fee imposed by section 4832, subsection 1;
- 17 (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection
- 18 2-B;
- 19 (11) Any amount charged or collected by a person engaged in the rental of living
- 20 quarters as a forfeited room deposit or cancellation fee if the prospective
- 21 occupant of the living quarters cancels the reservation on or before the scheduled
- 22 date of arrival;
- 23 (12) The premium imposed on ~~bulk motor vehicle oil and prepackaged~~ motor
- 24 vehicle oil by Title 10, section 1020, subsection 6-A; or
- 25 (13) Any amount charged for the disposal of used tires.

26 **Sec. 23. 38 MRSA §568-B, sub-§2, ¶E**, as amended by PL 2001, c. 356, §8, is  
 27 further amended to read:

28 E. To ~~consult with the Finance Authority of Maine at such times as are necessary,~~  
 29 ~~but no less than annually, to review income and disbursements from the Waste Oil~~  
 30 ~~Clean-up Fund under Title 10, section 1023-L. The board~~, at such times and in such  
 31 amounts as it determines necessary, and in consultation with the Finance Authority of  
 32 Maine, shall direct the transfer of funds from the Underground Oil Storage  
 33 Replacement Fund to the Groundwater Oil Clean-up Fund.

34 **Sec. 24. 38 MRSA §570-H**, as amended by PL 2007, c. 292, §37, is further  
 35 amended to read:

36 **§570-H. Report; adequacy of fund**

37 On or before February 15th of each year, the Fund Insurance Review Board, with the  
 38 cooperation of the commissioner, shall report to the joint standing committee of the  
 39 Legislature having jurisdiction over natural resources matters on the department's and the

1 board's experience administering the fund, clean-up activities and 3rd-party damage  
2 claims. The report must include an assessment of the adequacy of the fund to cover  
3 anticipated expenses and any recommendations for statutory change. The report also  
4 must include an assessment of the adequacy of the Underground Oil Storage Replacement  
5 Fund and the Waste Oil Clean-up Fund to cover anticipated expenses and any  
6 recommendations for statutory change. To carry out its responsibility under this section,  
7 the board may order an independent audit of disbursements from the Groundwater Oil  
8 Clean-up Fund, and the Underground Oil Storage Replacement Fund ~~and the Waste Oil~~  
9 ~~Clean-up Fund.~~

10 **Sec. 25. Final use of funds in Waste Oil Clean-up Fund by the authority.**

11 Within 30 days of the effective date of this Act, the Finance Authority of Maine shall  
12 ascertain the balance in the Waste Oil Clean-up Fund established in the Maine Revised  
13 Statutes, Title 10, section 1023-L and disburse that amount to eligible persons at the  
14 waste motor oil disposal site in Plymouth, as defined in Title 10, section 963-A,  
15 subsection 51-E, paragraph A, in accordance with the certificate of determination  
16 pursuant to Title 10, section 1020-A, subsection 4. The authority shall disburse that  
17 amount to those eligible persons on a pro rata basis.

18 **Sec. 26. Elimination of loan balances.**

19 Notwithstanding any provision of law to  
20 the contrary, the Finance Authority of Maine, within 30 days of the effective date of this  
21 Act, shall ascertain the outstanding loan balance of each borrower under the Plymouth  
22 Waste Oil Loan Program under the Maine Revised Statutes, Title 10, section 1023-M.  
23 Each outstanding loan balance must be treated as if the loan funds were a grant to the  
24 borrower from the Finance Authority of Maine and the borrower has no further obligation  
25 to the Finance Authority of Maine related to the loan balance nor does the Finance  
26 Authority of Maine have any further obligation under the Plymouth Waste Oil Loan  
Program except to release and discharge any corresponding loan collateral.

27 **Sec. 27. Effective date.**

28 Those sections of this Act that amend the Maine Revised  
29 Statutes, Title 10, section 1020, subsection 1 and repeal and replace Title 10, section  
30 1020, subsection 6-A take effect July 1, 2011. Those sections of this Act that amend  
31 Title 10, section 1020-A, subsection 2 and Title 38, section 568-B, subsection 2,  
32 paragraph E and repeal Title 10, section 963-A, subsection 47-B, paragraph C and  
sections 1023-L and 1023-M take effect December 31, 2012.

33 **Emergency clause.**

34 In view of the emergency cited in the preamble, this  
legislation takes effect when approved, except as otherwise indicated.

35 **SUMMARY**

36 This bill implements the recommendations of the stakeholder group convened by the  
37 Department of Environmental Protection pursuant to Resolve 2009, chapter 211. The bill  
38 amends the waste motor oil disposal site remediation program and the Plymouth Waste  
39 Oil Loan Program in accordance with the stakeholder group recommendations.

40 1. Current law imposes a premium on prepackaged gasoline engine motor oil and  
41 diesel engine bulk motor vehicle oil at the rate of 35¢ per gallon and on gasoline engine

1 bulk motor vehicle oil at the rate of \$1.10 per gallon. This bill specifies that the premium  
2 is \$1.10 per gallon of gasoline engine crankcase oil sold or distributed in a volume of  
3 more than 5 gallons and 35¢ per gallon on diesel engine crankcase oil, gasoline engine  
4 crankcase oil sold or distributed in containers of 5 gallons or less and all other motor  
5 vehicle oil sold or distributed in containers of 16 gallons or less.

6 2. As long as there is at least \$600,000 in the Waste Motor Oil Revenue Fund, the  
7 Finance Authority of Maine is directed to disburse the funds in excess of that amount  
8 each year to reimburse motor vehicle oil dealers for premiums paid on oil sold or  
9 distributed outside of Maine, to pay the responsible parties at the Plymouth waste motor  
10 oil disposal site, to reimburse the Maine National Guard for response costs incurred at the  
11 Plymouth waste motor oil disposal site and to reimburse the Uncontrolled Sites Fund in  
12 the Department of Environmental Protection for response costs incurred by the  
13 department at the waste motor oil disposal sites in Plymouth, Casco, Ellsworth and  
14 Presque Isle.

15 3. Once \$3,500,000 is paid to the Department of Environmental Protection from the  
16 Waste Motor Oil Revenue Fund, the department is directed to release from liability any  
17 eligible person at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites.

18 4. A program to reimburse motor oil dealers for premiums paid on oil sold or  
19 distributed out of state is established using funds in the Waste Motor Oil Revenue Fund.

20 5. The Finance Authority of Maine is required to disburse, on a pro rata basis, all  
21 funds in the Waste Oil Clean-up Fund, established in the Maine Revised Statutes, Title  
22 10, section 1023-L, to eligible persons at the waste motor oil disposal site in Plymouth.

23 6. The Finance Authority of Maine is required to treat as a grant any loan made by  
24 the authority under the Plymouth Waste Oil Loan Program established in Title 10, section  
25 1023-M and to dismiss any further obligation of the borrower.