

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

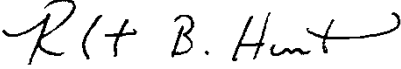
No. 780

H.P. 585

House of Representatives, March 5, 2021

An Act Regarding Uncontrolled Hazardous Substance Sites

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Environment and Natural Resources suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative FAY of Raymond.

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

2 **Sec. 1. 38 MRSA §1362, sub-§1, ¶F**, as amended by PL 1985, c. 746, §32, is
3 further amended to read:

4 F. Any imminently hazardous chemical substance or mixture with respect to which the
5 Administrator of the United States Environmental Protection Agency has taken action
6 pursuant to the United States Toxic Substances Control Act, Section 7; ~~and~~

7 **Sec. 2. 38 MRSA §1362, sub-§1, ¶G**, as amended by PL 1989, c. 878, Pt. B, §42,
8 is further amended to read:

9 G. Waste oil as defined in section 1303-C; ~~and~~

10 **Sec. 3. 38 MRSA §1362, sub-§1, ¶H** is enacted to read:

11 H. Any substance defined as a hazardous substance or a pollutant or contaminant under
12 the United States Comprehensive Environmental Response, Compensation, and
13 Liability Act of 1980, 42 United States Code, Section 9601.

14 **Sec. 4. 38 MRSA §1367-B**, as enacted by PL 1991, c. 811, §4 and affected by §7,
15 is amended to read:

16 **§1367-B. Limited exemption exemptions from liability for state or local governmental**
17 **entities**

18 **1. Limited exemption from liability for state or local governmental entities.**
19 Liability under section 1367 does not apply to the State or ~~any~~ a political subdivision that
20 acquired ownership or control of an uncontrolled hazardous substance site through tax
21 delinquency proceedings pursuant to Title 36, or through any similar statutorily created
22 procedure for the collection of governmental taxes, assessments, expenses or charges, or
23 involuntarily through abandonment, or in circumstances in which the State or a political
24 subdivision involuntarily acquired ownership or control by virtue of its function as a
25 sovereign. The exemption from liability provided under this subsection does not apply to
26 the State or ~~any~~ a political subdivision that has caused, contributed to or exacerbated a
27 release or threatened release of a hazardous substance on or from the uncontrolled site.

28 **1-A. Limited exemption from liability for publicly owned treatment works.** A
29 publicly owned treatment works is exempt from liability under section 1367 as a
30 responsible party under section 1362, subsection 2, paragraph C based on the contribution
31 by the publicly owned treatment works of effluent or sewage sludge to an uncontrolled site,
32 except that the exemption does not apply if the commissioner determines that the publicly
33 owned treatment works:

34 A. Has failed to follow best management practices for the disposal or use of effluent
35 or sewage sludge;

36 B. Has failed to comply with an information request or administrative subpoena issued
37 by the department under this chapter; or

38 C. Has impeded or is impeding, through action or inaction, the performance of a
39 response action or natural resources restoration at the uncontrolled site.

40 **1-B. Limited exemption from liability for public water systems.** A public water
41 system is exempt from liability under section 1367 as a responsible party under section

1 1362, subsection 2, paragraph C based on the contribution by the public water system of
2 water treatment residuals to an uncontrolled site, except that the exemption does not apply
3 if the commissioner determines that the public water system:

4 A. Has failed to follow best management practices for the disposal or use of water
5 treatment residuals;

6 B. Has failed to comply with an information request or administrative subpoena issued
7 by the department under this chapter; or

8 C. Has impeded or is impeding, through action or inaction, the performance of a
9 response action or natural resources restoration at the uncontrolled site.

10 For the purposes of this subsection, "public water system" has the same meaning as in the
11 federal Safe Drinking Water Act Amendments of 1996, 42 United States Code, Section
12 300f.

13 **2. Reimbursement for department expenses.** Notwithstanding the exemption from
14 liability provided in subsection 1, the State or ~~any~~ a political subdivision that acquires or
15 has acquired ownership of property that encompasses an uncontrolled hazardous substance
16 site pursuant to any of the proceedings referred to in subsection 1 is liable for any costs
17 incurred by the department pursuant to this chapter during the period in which the State or
18 political subdivision had ownership of the property, up to the amount of the proceeds from
19 the sale or disposition of the property minus the out-of-pocket costs of the sale or
20 disposition.

21 **Sec. 5. Report.** On or before January 15, 2023, the Department of Environmental
22 Protection shall report to the joint standing committee of the Legislature having jurisdiction
23 over environment and natural resources matters regarding uncontrolled hazardous
24 substance sites where the department, pursuant to its authority under the Maine Revised
25 Statutes, Title 38, chapter 13-B, has required a responsible party to investigate or remove
26 a hazardous substance that is a pollutant or contaminant under Title 38, section 1362,
27 subsection 1, paragraph H and, for each such site, the common name and chemical abstracts
28 service registry number of the hazardous substance investigated or removed.

29 SUMMARY

30 This bill makes the following changes to the State's uncontrolled hazardous substance
31 sites law.

32 1. It amends the definition of "hazardous substance" in the laws governing
33 uncontrolled hazardous substance sites by including substances defined as hazardous
34 substances or pollutants or contaminants under the federal Comprehensive Environmental
35 Response, Compensation, and Liability Act of 1980.

36 2. It provides a limited exemption from liability for publicly owned treatment works
37 based on the contribution by the publicly owned treatment works of effluent or sewage
38 sludge to an uncontrolled hazardous substance site.

39 3. It provides a limited exemption for public water systems based on the contribution
40 by the public water system of water treatment residuals to an uncontrolled hazardous
41 substance site.

1 The bill also requires that, on or before January 15, 2023, the Department of
2 Environmental Protection report to the joint standing committee of the Legislature having
3 jurisdiction over environment and natural resources matters the uncontrolled hazardous
4 substance sites where the department has used its authority to require responsible parties to
5 investigate or remove hazardous substances that are pollutants or contaminants and, for
6 each site, information identifying the substance involved.