

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

3. Repeal. This section is repealed on April 1, 1986.

Effective July 25, 1984.

CHAPTER 785

S.P. 857 - L.D. 2324

AN ACT to Require an Inventory, Permitting
and Monitoring of Underground Tanks Containing
Gasoline, Oil and Toxic Materials.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is important to begin the planning and survey activities as soon as possible in order to acquire the information necessary for an effective regulatory program in 1985; and

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

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

Sec. 1. Findings and purpose. The Legislature finds that significant quantities of flammable, combustible and toxic materials are currently being stored in underground storage facilities and that numerous incidents involving leaks or unlicensed discharges from that underground storage are occurring at a rate so as to pose a significant threat to Maine's ground water resources.

The Legislature further finds that protection of the state's ground water resources is of a high priority in maintaining adequate protection of public health and welfare for Maine's citizens.

The purpose of this Act is to initiate development of a comprehensive plan and strategy designed to improve the quality of underground storage facilities for flammable, combustible and toxic materials; and

to initiate modifications to the regulatory program, to begin as soon as practicable, in order to address the environmental hazards of underground storage facilities.

Sec. 2. State agency planning required. The Department of Environmental Protection, the Department of Human Services and the Department of Public Safety, in cooperation with the owners and users of underground storage facilities in Maine, shall formulate a comprehensive plan to address, at a minimum, the following issues:

1. Standards for new aboveground and underground oil storage facilities which are designed to provide reasonable assurance of leak-free storage and early detection should a leak occur;

2. Appropriate procedures, including, but not limited to, daily inventory control to improve the capability to detect leaks in existing underground oil storage facilities at the earliest opportunity;

3. A strategy to identify and achieve proper abandonment of all underground oil storage facilities which are no longer in service;

4. Extension of these standards and procedures to underground storage facilities for flammable, combustible and toxic materials other than oil and petroleum products; and

5. The roles and responsibilities of each of the participating state agencies.

The Department of Environmental Protection shall be the lead agency for preparation of the plan, which shall be submitted to the First Regular Session of the 112th Legislature, with recommendations for any necessary legislation.

Sec. 3. Survey of existing facilities. The Department of Environmental Protection shall survey available records to identify, insofar as possible, all existing underground oil storage tanks in the State and the owners of record of them, and publish a summary on or before October 1, 1984.

Sec. 4. 22 MRSA §2641, as amended by PL 1979, c. 472, §4, is repealed and the following enacted in its place:

§2641. Source of public water supply defined

As used in this subchapter, unless the context otherwise indicates, "public water source" means any natural or man-made impoundment, pond or lake or ground water aquifer whose waters are transported or delivered by a public water system, as defined in section 2601, subsection 8. Where the intake of a public water supply is on the outlet of any impoundment, pond or lake, the source of such public water supply shall be considered to be the impoundment, pond or lake itself.

Sec. 5. 22 MRSA §2646, as enacted by PL 1975, c. 751, §4, is repealed.

Sec. 6. 22 MRSA §2647, first ¶, as amended by PL 1977, c. 694, §366, is further amended to read:

Any water utility or municipality, or the department, is authorized to take reasonable methods steps to protect a public water source from pollution. It may enter upon land within 1,000 feet of the high water mark of a public water source and upon land used for commercial or industrial purposes having a facility, structure or system of drainage or sewage draining or suspected of flowing or seeping into a public water source and inspect the facility, structure or system of drainage or sewage disposal of, including any building or structure thereon. Such The power of entry and inspection shall be exercised only after the water utility, municipality or department has made a reasonable effort to obtain permission therefor from the landowner. Any local or state health inspector or officer may order the owner of any building or structure thereon having a facility, structure or system of drainage or sewage flowing or seeping into and contaminating the public water source, which may result in risk to the public health, to remedy the situation. Such The order shall be in writing and state a time in which the order must be complied with. These orders shall not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 7. 25 MRSA §2441, as amended by PL 1983, c. 174, §2, is further amended by adding after the first paragraph a new paragraph to read:

This section shall not apply to the storage in underground tanks of petroleum, coal oils, burning fluids, naphtha, benzines and other hazardous substances, materials or waste which are regulated by the Department of Environmental Protection under Title 38.

Sec. 8. 38 MRSA §349, sub-§4, ¶D-1 is enacted to read:

D-1. Section 545-A; (Underground oil storage facilities);

Sec. 9. 38 MRSA §541, as amended by PL 1983, c. 483, §8, is further amended by adding after the 3rd paragraph a new paragraph to read:

The Legislature further finds and declares that significant quantities of oil are being stored in underground storage facilities; that leaks and unlicensed discharges from such facilities pose a significant threat to the quality of the waters of the State, including the ground water resources; that protection of the quality of these waters is of the highest importance; and that their protection requires proper design and installation of new and replacement underground storage facilities, and monitoring, maintenance and remedial action on the existing facilities.

Sec. 10. 38 MRSA §542, sub-§10-A is enacted to read:

10-A. Underground oil storage facility. "Underground oil storage facility" means any tank or tanks or other container or containers, together with associated piping and dispensing facilities located under any land, with capacity greater than 500 gallons at any single location and used, or intended to be used, for the storage or supply of oil, as defined in this subchapter.

Sec. 11. 38 MRSA §543, first ¶, as amended by PL 1977, c. 375, §5, is further amended to read:

The discharge of oil into or upon any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the State, or into any lake, pond, river, stream, sewer, surface water drain drainage, ground water or other waters of the State or any public or private water supply is prohibited.

Sec. 12. 38 MRSA §545-A is enacted to read:

§545-A. Underground oil storage facilities

No person may install a new or replacement underground oil storage facility without a permit, or in violation of any condition of a license.

1. Permit. The department shall issue a permit for an underground oil storage facility if it finds that the facility is located, designed and constructed so as to protect the health and welfare of the people of the State and to protect the environment.

2. Fee. Any person who applies for a permit for an underground oil storage facility shall pay a fee of \$10 per tank or container to the department, except that no fee may be charged for a permit for a residential oil storage facility. No fee may be charged for an underground oil storage facility that is subject to review under the provisions of the site location of development law, Title 38, Article 6. No permit may be issued until the fee has been paid. Upon receipt by the department, the fee shall be credited to the Maine Coastal Protection Fund.

3. Inspection and entry. The department may enter the premise of any underground oil storage facility, whether existing or under construction, at reasonable hours and enter any building with the consent of the property owner, occupant or agent to inspect and determine compliance with the requirements of this subchapter.

Sec. 13. 38 MRSA §546, sub-§4, ¶¶I and J are enacted to read:

I. The design, installation and operating procedure requirements for both new and replacement underground oil storage facilities to prevent discharges of oil prohibited by this subchapter; and

J. The proper methods for safe abandonment or removal of underground oil storage facilities which have been used to hold oil.

Sec. 14. 38 MRSA §1306-C, sub-§4, ¶B, as enacted by PL 1981, c. 430, §18, is amended to read:

B. The proceeds of a sale shall be used to pay the costs of cleanup, abatement or mitigation of any threats or hazards to public health or safety or to the environment, the costs of any removal, storage, treatment, disposal or other handling of hazardous waste or hazardous substances, as defined in section 1362, reasonable expenses for the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and to pay any bona fide mortgage thereon, and the balance, if any, shall be deposited in the General Fund.

Sec. 15. Allocation. The following funds are allocated from the Maine Coastal Protection Fund for the purposes of this Act.

1984-85

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Positions	(4)
Personal Services	\$ 90,000
All Other	10,000
Capital Expenditures	<u>25,000</u>
Total	\$125,000

Emergency clause. In view of the emergency cited in the preamble, sections 1 to 6 and 15 of this Act shall take effect when approved and sections 7 to 14 shall take effect on March 1, 1985.

Effective April 18, 1984, unless otherwise indicated.

CHAPTER 786

S.P. 873 - L.D. 2367

AN ACT to Amend the Laws Concerning Commercial Whitewater Rafting.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, changes in the law before the 1984 rafting season are necessary to assure that those who participate in commercial whitewater rafting trips are provided with the safest types of personal flotation devices; and

Whereas, changes are also necessary to meet the Legislature's goal of maximizing competition within the recreational use limits established for commercial whitewater rafting and to prohibit certain acts; and

Whereas, the 1984 rafting season will begin in April; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of