

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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## CHAPTER 625

S.P. 185 - L.D. 503

### AN ACT to Require the State to Comply with Municipal Ordinances Governing the Construction of Buildings.

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

5 MRSA §1742-B is enacted to read:

#### §1742-B. Municipal building ordinances

State construction projects and public improvements to state-owned or leased buildings shall comply with municipal ordinances governing the construction and alteration of buildings. The Director of the Bureau of Public Improvements shall require contractors and subcontractors to obtain all necessary municipal building permits and state-owned or leased buildings shall be subject to municipal inspections.

Notwithstanding this section, no fee may be assessed for any permit obtained for any state construction project or public improvements to state-owned buildings.

Effective July 16, 1986.

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## CHAPTER 626

S.P. 782 - L.D. 1975

### AN ACT to Amend Certain Provisions of the Underground Oil Storage Tank Installers and Underground Oil Storage Facilities.

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, the Board of Underground Oil Storage Tank Installers is required by the Maine Revised

Statutes, Title 32, chapter 105, to certify individuals as underground tank installers by May 1, 1986, to insure that all underground tanks are properly and safely installed within the State; and

Whereas, the Board of Underground Oil Storage Tank Installers is in immediate need of funding for expenses and for support staff in order to carry out its legislative mandate; and

Whereas, revenue from application fees will not be forthcoming in a timely fashion or in adequate levels to support the board's expenses and support staff; and

Whereas, new installation standards for underground oil storage facilities must be applicable to piping as well as the tanks; 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. 32 MRSA §10012, sub-§2, as enacted by PL 1985, c. 496, Pt. A, §2, is amended to read:

2. Disposal of fees. All fees received by the board shall be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out this chapter. Any balance of fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 2. 38 MRSA §563, sub-§§2, 3 and 5, as enacted by PL 1985, c. 496, Pt. A, §14, are amended to read:

2. Information required for registration. The owner or operator of an underground oil storage tank facility shall provide the department with the following information on a form in triplicate to be developed and provided by the department; one copy to be submitted to the department, one copy to be promptly submitted upon completion to the fire department in whose jurisdiction the underground tank is located and one copy to be retained by the owner or operator:

- A. The name, address and telephone number of the owner of the underground oil storage tank to be registered;
- B. The name, address and telephone number of the person having responsibility for the operation of the tank to be registered;
- C. A description of the location of the facility and the location of the tank or tanks at that facility;
- D. Whether the location of any tank at the facility is within 1,000 feet of a public drinking water supply or within 300 feet of a private drinking water supply;
- E. The size of the tank to be registered;
- F. The type of tank or tanks and piping at the facility and the type of product stored or contained in the tank or tanks and piping;
- G. For new and replacement tanks, the name of the installer, the expected date of installation, the nature of any emergency pursuant to subsection 1, paragraph A, if applicable, and a description or plan showing the layout of the facility or tank, including, for tanks in sensitive geologic areas, the form of secondary containment, monitoring wells or equipment to be installed pursuant to section 564, subsection 1, paragraph C; and
- H. For existing facilities and tanks, the best estimate of the age and type of tank or tanks at the facility.

For existing tanks, the information required for registration shall be submitted to the department in accordance with this subsection on or before February 1, 1986.

3. Amended registration required. The owner or operator of an underground oil storage tank facility shall file an amended registration form with the department immediately upon any change in the information required pursuant to subsection 2. No fee may be charge for filing an amended registration.

5. Payment for failure to register or to pay annual registration fee. Any person liable for the fee imposed by subsection 4 shall pay a \$10 late payment

fee in addition to the fee specified in subsection 4, if the initial fee payment and registration form has not been submitted to the department on or before February 1, 1986, but is submitted on or before May 1, 1986.

Any person liable for the fee imposed by subsection 4 shall pay 3 times the fee specified in subsection 4 if the appropriate fee payment and registration form has not been submitted to the department on or before May 1, 1986.

The owner or operator of an underground oil storage ~~tank~~ facility not used in the marketing and distribution of oil shall pay a fee of \$50 for each tank that is not registered by May 1, 1986.

Sec. 3. 38 MRSA §564, sub-§1, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

1. Design and installation standards for new and replacement facilities. Design and installation standards for new and replacement ~~tanks~~ facilities are as follows.

A. All new and replacement tanks shall be constructed of fiberglass ~~or~~, cathodically protected steel or other noncorrosive material approved by the Department of Environmental Protection. All new and replacement piping shall be constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the Department of Environmental Protection.

B. All new and replacement ~~tanks~~ facilities shall be installed by an underground oil storage tank installer who has been properly certified pursuant to Title 32, chapter 105, and shall be registered with the department prior to installation pursuant to section 563.

C. For new and replacement ~~tanks~~ facilities in sensitive geologic areas, the owner shall install one of the following:

(1) Secondary containment of all underground oil storage facility components;

(2) Continuous electronic monitoring for free product in those monitoring wells installed in the excavated area around the tank or tanks, and additional wells with electronic monitoring to detect a leak or discharge of oil from the piping;

(3) Continuous electronic monitoring in the unsaturated zone of all elements of the facility, using sufficient sampling points to detect a leak or discharge of oil from any point in the facility; or

(4) A reasonable number of monitoring wells located around the tank or around the perimeter of the facility, sampled and tested that are sufficient to detect any discharge of oil or contamination of ground water from a facility.

D. The requirements set forth in paragraph B for new and replacement ~~tanks~~ facilities in sensitive geologic areas may not be imposed solely due to the proximity of an underground oil storage tank to a private drinking water supply where the tank and private drinking water supply are located at the same site and are owned, operated or utilized by the same person or persons. In addition, the board shall adopt rules to provide for exemptions from the requirements of paragraph C in circumstances where the ~~tank~~ facility is to be installed over a polluted aquifer where no unreasonable additional harm to public health and safety or to the environment can occur.

Sec. 4. 38 MRSA §564, sub-§3, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

3. Replacement of tanks at facilities where leaks have been detected. If replacement or removal is required as a result of a corrosion induced leak in an unprotected steel tank, the owner or operator of the facility may either replace all other tanks and piping at that facility not meeting the design and installation standards promulgated pursuant to subsection 1 or comply with the following:

A. Remove all bare steel and asphalt-coated steel tanks and all piping which is not constructed of noncorrosive material or is not cathodically protected against corrosion at the facility that are more than 20 years old;

B. Perform a statistical inventory analysis of the entire facility and submit the results of that analysis to the department. If a statistical inventory analysis of the entire facility had been performed within 60 days prior to the required replacement, then the results of that analysis may be submitted to the department instead. If the results of the statistical inven-



tory analysis indicate evidence of a leak at the facility or that the data is not sufficiently reliable to make a determination that the facility is or is not leaking, the department may require that all remaining tanks and piping at the facility be precision tested, except that precision testing shall not be required where it can be demonstrated that the same tanks and piping passed a precision test conducted within the previous 6 months; and

C. Install a minimum of 2 ground water monitoring wells, as deemed necessary by the department to monitor the facility, unless all remaining tanks and piping at the facility were installed in accordance with the standards promulgated pursuant to subsection 1.

Results of all precision tests conducted pursuant to paragraph B shall be submitted to the department, and all tanks and piping found to be leaking shall be removed pursuant to section 566, or repaired to the satisfaction of the department.

Sec. 5. 38 MRSA §565, first ¶, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

The board shall adopt rules necessary to minimize, to the extent practicable, the potential for discharges of oil from underground oil storage facilities not used in the marketing and distribution of oil to others. These rules shall apply to all underground oil storage ~~tanks facilities~~ that are used for consumption on the premises or by the owner or operator of the facility, including tanks installed temporarily at a construction site; all residential home heating oil tanks regardless of size; all ~~tanks facilities~~ owned or operated by the State, any of its agencies and instrumentalities or any political subdivision; and all other tanks and facilities that are not governed by the requirements of section 564. These rules are limited to the following requirements.

Sec. 6. 38 MRSA §565, sub-§1, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

1. Design and installation standards for new and replacement facilities. Design and installation standards for new and replacement tanks are as follows.

A. The installation of new or replacement tanks and piping constructed of bare steel or asphalt-coated steel is prohibited.

B. All new and replacement ~~tanks~~ facilities shall be installed by an underground oil storage tank installer who has been properly certified pursuant to Title 32, chapter 105, and shall be registered with the department prior to installation pursuant to section 563.

C. The installation of monitoring wells shall be required for new and replacement ~~tanks~~ facilities with a capacity in excess of 1,100 gallons where physically or technically practicable. Monitoring wells shall not be required where double wall tanks equipped with interstitial space monitors are utilized.

Sec. 7. 38 MRSA §566, 2nd ¶ from the end, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

Notice of an intent to abandon an underground oil storage facility or tank shall be provided to the department and the fire department in whose jurisdiction the underground tank is located at least 10 days prior to abandonment.

Sec. 8. 38 MRSA §567, as enacted by PL 1985, c. 496, Pt. A, §14, is amended by adding at the end a new paragraph to read:

Notwithstanding section 570, tank installers shall be liable to other than the State as follows: With the exception of prohibited discharges resulting from an installer's negligence, the liability of certified installers shall be limited to damages resulting from prohibited discharges discovered within the 12-month period immediately following the installation of the underground tank or facility. To insure its continued relevance, this provision shall be reviewed by June 30, 1991, by the joint standing committee of the Legislature having jurisdiction over energy and natural resources.

Sec. 9. 38 MRSA §569, sub-§5, ¶¶F and G, as enacted by PL 1985, c. 496, Pt. A, §14, are amended to read:

F. Payment of costs of insurance by the State to extend or implement the benefits of the fund; and

G. Sums up to \$50,000 each year, which have been allocated by the Legislature on a contingency basis in accordance with section 570-A for payment of costs for studies of the environmental impacts

of discharges to ground water prohibited by section 543 which may have adverse economic effects and which occur subsequent to the allocation, when the studies are deemed necessary by the commissioner; and

Sec. 10. 38 MRSA §569, sub-§5, ¶H is enacted to read:

H. All costs associated with the Board of Underground Oil Storage Tank Installers.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 2, 1986.

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## CHAPTER 627

H.P. 1563 - L.D. 2208

AN ACT to Increase the Registration Fee Charged to Pesticide Manufacturers and Other Registrants.

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

Sec. 1. 7 MRSA §607, sub-§6, as amended by PL 1981, c. 9, is further amended to read:

6. Registration fee; validity. The applicant desiring to register a pesticide shall pay an annual registration fee, ~~except as otherwise provided in this subsection, of \$60~~ in calendar year 1987 of \$75 for each pesticide registered for that applicant. Ten dollars of each ~~\$60~~ \$75 shall be used for purposes of funding research, analysis and evaluation relating to public health concerns arising out of pesticide use. The annual registration fee in calendar year 1987 is ~~\$50~~ \$65 for any pesticide for which the applicant indicates, by affidavit or other method satisfactory to the department, that retail sales do not exceed \$6,000 per year in this State. ~~All such registrations~~ Annual registration periods shall expire on December 31st of any one year or in a manner consistent with the Maine Administrative Procedure