

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person.

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions;

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation;

D. The disclosure is necessary under Title 22, section 4011 concerning reports of suspected child abuse or neglect; or

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect.

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

**Sec. 2. 10 MRSA §8003-B, sub-§4**, as enacted by PL 1989, c. 173, is amended to read:

**4. Violation.** A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

See title page for effective date.

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## CHAPTER 553

H.P. 1283 - L.D. 1731

### An Act Relating to the Ground Water Oil Clean-up Fund

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

**Whereas**, the amount of the import fees assessed on petroleum products is scheduled to be increased from January 1, 1994 to January 1, 1998 to fund the insurance program that is administered through the Ground Water Oil Clean-up Fund; and

**Whereas**, the vast majority of insurance claims that were projected to be made against the Ground Water Oil Clean-up Fund have been filed; and

**Whereas**, the Ground Water Oil Clean-up Fund is and will be sufficiently funded, without the imposition of additional fees, to cover future claims; and

**Whereas**, certain clarifications regarding the operation and administration of the Ground Water Oil Clean-up Fund need to be made in order to facilitate the 3rd-party claims process; 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. 38 MRSA §568-A, sub-§6** is enacted to read:

**6. Reimbursement of 3rd-party damages paid.** If a person claiming to have suffered property damage or actual economic damage directly or indirectly as a result of a discharge of oil to groundwater prohibited by section 543 files a claim for damages against the owner or operator of an underground or aboveground oil storage tank in a court of competent jurisdiction without simultaneously filing or previously having filed a 3rd-party damage claim pursuant to section 569-A, the owner or operator may file a claim with the commissioner to be reimbursed for damages paid or payable to that 3rd party under a settlement or judgment. Such a claim for reimbursement must be filed and processed as follows.

A. The claim for reimbursement must be filed with the commissioner. If the owner or operator has not previously filed an application for fund coverage pursuant to subsection 1, the person claiming reimbursement shall also make application. The application must comply with the requirements of subsection 1 and must be processed and judged by the standards set forth in that subsection except that it is not required to be filed within 180 days of reporting the discharge.

B. If the person is eligible for fund coverage, the commissioner shall calculate the amount of reimbursement to the owner or operator by determining whether each amount claimed would be eligible for payment had the 3rd party applied directly to the fund. Eligible amounts, minus any deductible that has not previously been met by the owner or operator, must be paid to that owner or operator.

C. Appeals of decisions made under this subsection may be made to the Fund Insurance Review Board.

**Sec. 2. 38 MRSA §569-A, sub-§2, ¶E**, as enacted by PL 1991, c. 817, §26, is amended to read:

E. Awards ~~Damage claim awards paid from the fund on damage claims to a claimant~~ may not include any amount the claimant has recovered on account of the same damage by way of settlement with the responsible party or the responsible party's representative or judgment of a court of competent jurisdiction against the person causing or otherwise responsible for the discharge.

**Sec. 3. 38 MRSA §569-A, sub-§5, ¶A**, as amended by PL 1993, c. 412, §5, is further amended to read:

A. Until ~~January 1, 1994 and after January 1, 1998~~ December 31, 1999, a fee is assessed of 44¢ per barrel of gasoline; 25¢ per barrel of refined petroleum products and their by-products other than gasoline, liquid asphalt and #6 fuel oil, including #2 fuel oil, kerosene, jet fuel and diesel fuel; and 4¢ per barrel of #6 fuel oil. The fee is assessed on the first transfer of those products by oil terminal facility licensees, as defined in section 542, subsection 7, and on a person required to register with the commissioner under section 545-B who first transports oil into the State. The fee is not assessed on petroleum products that are exported from this State. These fees must be paid monthly on the basis of records certified to the commissioner. This subsection does not apply to waste oil transported into the State in any motor vehicle that has a valid license issued by the department for the transportation of waste oil pursuant to section 1319-O and is subject to fees established under section 1319-I.

**Sec. 4. 38 MRSA §569-A, sub-§5, ¶B**, as amended by PL 1993, c. 412, §5, is repealed.

**Sec. 5. 38 MRSA §569-A, sub-§5, ¶D**, as enacted by PL 1991, c. 817, §26, is amended to read:

D. When the fund balance reaches \$15,000,000, the collection of fees under ~~paragraphs A and B~~ paragraph A abates. When the commissioner projects that the fund balance will reach \$15,000,000, the commissioner must provide a 15-day advance notice of the abatement to persons assessed the fee under ~~paragraphs A and B~~ paragraph A. The \$15,000,000 fund limit may be exceeded to accept transfer fees assessed or received after the 15-day notice has been issued. When the fund balance is reduced to \$12,500,000, the fees assessed under ~~paragraphs A and B~~ paragraph A are reimposed. The commissioner shall provide a 15-day advance notice of the reimposition of those fees.

**Sec. 6. 38 MRSA §569-A, sub-§8, ¶D**, as enacted by PL 1991, c. 817, §26, is amended to read:

D. Payment of the 3rd-party damage claims awarded in accordance with this section that are not paid by the responsible party or applicant for coverage by the fund and payment of 3rd-party damage claims that are paid to owners or operators pursuant to section 568-A, subsection 6;

**Sec. 7. Application.** Sections 1, 2 and 6 of this Act apply to any judgment entered or settlement effectuated after the effective date of this Act.

**Sec. 8. Retroactivity.** Sections 3, 4, and 5 of this Act apply retroactively to January 1, 1994.

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

Effective March 30, 1994.

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## CHAPTER 554

### H.P. 1285 - L.D. 1733

#### An Act to Apportion Districts for the Election of County Commissioners

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

**Whereas**, the Constitution of Maine and the laws of Maine require the decennial reapportionment of districts for the election of county commissioners; and

**Whereas**, the reapportionment of county commissioner districts must be completed this year; and