

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

C. The appropriateness of continuing with a liability cap in light of the interests of the families of lead-poisoned children, the property owners and the State;

D. The feasibility of mechanisms to financially assist property owners in abating environmental lead, such as tax credits, loan funds, grants or other approaches; and

E. Other viable methods to encourage and fund lead-poisoning prevention programs throughout the State.

5. Staff assistance. The Bureau of Insurance shall provide clerical and technical assistance to the task force.

6. Compensation. Members of the task force serve without compensation and are not entitled to reimbursement for expenses.

7. Report. The task force shall submit its final report and any recommended legislation or other specific proposals to the joint standing committees of the Legislature having jurisdiction over judiciary and human resource matters and to the Executive Director of the Legislative Council by November 1, 1998. The Bureau of Insurance shall assist in preparing any legislation recommended by the task force.

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

Effective March 28, 1996.

CHAPTER 573

H.P. 1178 - L.D. 1610

An Act to Enhance Used Oil Recycling Capabilities

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

Sec. 1. 38 MRSA §1303-C, sub-§§2-A and 2-B are enacted to read:

2-A. Class I liquid. "Class I liquid" means any liquid having a flash point below 100° Fahrenheit.

2-B. Class II liquid. "Class II liquid" means any liquid having a flash point at or above 100° Fahrenheit and below 140° Fahrenheit.

Sec. 2. 38 MRSA §1303-C, sub-§§39-B and 39-C are enacted to read:

39-B. Used oil. "Used oil" means waste oil, as defined in subsection 42.

39-C. Used oil collection center. "Used oil collection center" means a site or facility where used oil is accepted from the public and collected or stored in an aboveground tank for recycling.

Sec. 3. 38 MRSA §1319-G, sub-§3 is enacted to read:

3. Waiver of reimbursement for registered used oil collection centers. Upon petition of the owner or operator of a registered used oil collection center, the commissioner may waive the right to reimbursement to the fund of costs incurred in the removal or abatement of up to 660 gallons of hazardous waste from that collection center if the commissioner finds that:

A. The registered used oil collection center is in compliance with the requirements contained in section 1319-Y and any rules adopted pursuant to section 1319-O, subsection 2, paragraph B;

B. The owner or operator of the registered used oil collection center:

(1) Did not mix the oil with hazardous waste; and

(2) Did not knowingly accept hazardous waste or oil mixed with hazardous waste; and

C. The commissioner has not granted any previous waivers of reimbursement for costs incurred in the removal or abatement of hazardous waste from the same registered used oil collection center pursuant to this subsection during the previous 12 months.

Notwithstanding this subsection, the commissioner may not grant waivers of reimbursement to the fund pursuant to this subsection that total more than \$10,000 in any one fiscal year.

Sec. 4. 38 MRSA §1319-O, sub-§2, ¶A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §261, is further amended to read:

A. The board may adopt rules relating to the transportation, collection and storage of waste oil by waste oil dealers to protect public health, safety and welfare and the environment. The rules may include, without limitation, rules requiring licenses for waste oil dealers and the location of waste oil storage sites that are operated by waste oil dealers, evidence of financial capability and manifest systems for waste oil. A person licensed by the department to transport or handle hazardous waste is not required to obtain

a waste oil dealer's license, but the hazardous waste license must include any terms or conditions determined necessary by the department relating to the transportation or handling of waste oil; and

Sec. 5. 38 MRSA §1319-O, sub-§2, ¶B is enacted to read:

B. The board may adopt rules relating to the registration, design and operation of used oil collection centers for the purposes of section 1319-Y. Rules adopted pursuant to this paragraph are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.

Sec. 6. 38 MRSA §1319-Y is enacted to read:

§1319-Y. Requirements for used oil collection centers

Owners and operators of used oil collection centers who wish to register their used oil collection centers for the purposes of section 1319-G, subsection 3 must comply with the following requirements in addition to any other requirements that may be established in rules adopted pursuant to section 1319-O, subsection 2, paragraph B. Other used oil collection centers are not required to comply with the provisions of this section.

1. Registration. Registration of used oil collection centers is governed by this subsection.

A. The owner or operator of a used oil collection center shall register the center on a form provided by the department. The registration form must be sent by certified mail or hand-delivered to the department. The registration form must be accompanied by photographs of the used oil collection center that clearly show that the design requirements of subsection 2 have been met.

B. If the applicable requirements of this section have not been met, the department shall notify the owner or operator in writing no later than 30 days after the department receives the completed registration form and photographs. If the department has not notified the applicant within the 30-day period, the center is deemed to be registered.

C. The owner or operator of a used oil collection center shall file an amended registration form within 10 business days upon any change in the information provided on the initial registration form.

2. Design requirements. In order to qualify for the waiver of reimbursement under section 1319-G,

subsection 3, the following design requirements applicable to aboveground tanks used to collect or store used oil must be met.

A. Tanks that are located outdoors must be watertight, must be equipped with spill and overflow protection, must be secured to prevent the tank from tipping over and must either:

(1) Be double-walled; or

(2) Have an alternate means of impervious secondary containment that is watertight and has the capacity to hold a minimum of 110% of the contents of the tank, with a roof over both the tank and the secondary containment.

B. Tanks that are located inside a building must have rigid piping, must have a funnel that is rigidly attached, must be secured to prevent the tank from tipping over and must either:

(1) Be double-walled; or

(2) Have an alternate means of impervious secondary containment that has the capacity to hold a minimum of 50% of the contents of the tank.

C. Tanks must be constructed of fiberglass, steel or other nonporous material.

D. The total aggregate capacity of all used oil tanks at a used oil collection center may not exceed the greater of 660 gallons or the total aggregate capacity of the used oil tanks at that center on the effective date of this section.

E. Tanks must be located in a manner that permits them to be readily inspected for evidence of leaks.

F. Tanks may not be located where any leaks could drain into sewers, floor drains or storm water catch basins or in areas subject to floods.

G. Tanks must be maintained in good condition with no severe rusting, no apparent structural defects or deterioration and no visible leaks.

H. Tanks must be clearly labeled or marked with the words "Used Oil."

I. Tanks must be located so that they are not exposed to a spill or leak of a Class I or Class II liquid.

J. The installation of tanks must be in accordance with applicable local ordinances.

K. Tanks must be protected from vehicular traffic by location or protection with bollards or similar devices.

3. Operational requirements. In order to qualify for the waiver of reimbursement under section 1319-G, subsection 3, the owners and operators of used oil collection centers:

A. May accept no more than 20 gallons of used oil from any entity or individual in a 24-hour period;

B. Shall inspect each load of used oil by sight or scent before accepting the used oil for collection;

C. Shall keep the used oil collection tank locked at all times, except when used oil is being added or removed;

D. Shall supervise the addition of used oil to the tank;

E. Shall provide ongoing maintenance and repairs at the used oil collection center to avoid any environmental hazards such as spills, leaks, discharges, fires and explosions;

F. May offer used oil only to persons licensed with the department as waste oil transporters pursuant to section 1319-O, subsection 2, paragraph A;

G. Shall report to the Department of Public Safety within 2 hours of becoming aware of a discharge and immediately take action to contain and remove any discharges of used oil; and

H. Shall notify the department no later than 24 hours after discovery that used oil delivered to or collected at the center is a hazardous waste.

See title page for effective date.

CHAPTER 574

S.P. 678 - L.D. 1735

An Act to Clarify the Agency Rule-making Process

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

Sec. 1. 5 MRSA §8071, sub-§1, as enacted by PL 1995, c. 463, §2, is amended to read:

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that ~~are~~ is enacted after January 1, 1996, including new rules authorized by amendment of provisions of

laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

Sec. 2. 5 MRSA §8072, sub-§§2 and 3, as enacted by PL 1995, c. 463, §2, are amended to read:

2. Submission of materials. At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;

B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal;

C. A statement of the circumstances that require the rule;

D. A statement of the economic impact of the rule on the State and its residents; and

E. Any other information required by law.

3. Assignment to committee of jurisdiction. Upon receipt of the required copies of the provisionally adopted rule and related information, the Executive Director of the Legislative Council shall ~~determine the~~ immediately forward the materials to the Secretary of the Senate and the Clerk of the House for placement on the Advance Journal and Calendar and distribution to a committee as provided in this subsection. The secretary and clerk shall jointly suggest reference to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt. After floor action on referral of the rule to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a