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STATE OF MAINE

AS PASSED BY THE

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
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subsection 2, paragraphs A and B by a preponderance of the evidence, the court shall terminate the parental rights and responsibilities of the parent.

4. Exception. The court is not required to terminate the parental rights and responsibilities of a parent convicted of gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B, that resulted in the conception of the child if:

A. The parent or guardian of the other parent filed the petition;

B. The other parent informs the court that the sexual act was consensual; and

C. The other parent opposes the termination of the parental rights and responsibilities of the parent convicted of the gross sexual assault.

See title page for effective date.

CHAPTER 364

H.P. 950 - L.D. 1313

An Act to Amend Certain Laws Administered by the Department of Environmental Protection

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

Sec. 1. 32 MRSA c. 104-A, first 3 lines are repealed and the following enacted in their place:

CHAPTER 104-A

UNDERGROUND OIL STORAGE TANK INSTALLERS

Sec. 2. 32 MRSA §10001, as amended by PL 1987, c. 410, §2, is further amended to read:

§10001. Declaration of purpose

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil ~~and underground hazardous substance~~ storage tank installers and to assure the availability of underground oil ~~and underground hazardous substance~~ storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil ~~and underground hazardous substance~~ storage tank installation services.

Sec. 3. 32 MRSA §10002, sub-§§3-A, 5-A and 5-B, as enacted by PL 1987, c. 410, §3, are repealed.

Sec. 4. 32 MRSA §10003, sub-§1, as amended by PL 1989, c. 845, §5, is further amended to read:

1. Establishment and membership. There is established within the Department of Environmental Protection, the Board of Underground Storage Tank Installers. The board consists of 7 members appointed by the Governor as follows: one from the Department of Environmental Protection; one from either the Maine Oil Dealer's Association or the Maine Petroleum Association; one underground oil ~~or underground hazardous substance~~ storage tank installer; one from either the Oil and Solid Fuel Board, the Plumber's Examining Board or the State Board of Certification for Geologists and Soil Scientists; one from the Maine Chamber of Commerce and Industry; one from the Maine Fire Chiefs Association; and one public member.

Sec. 5. 32 MRSA §10004, sub-§2, as amended by PL 1989, c. 312, §2, is further amended to read:

2. Rules. The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional regulation and to the establishment of ethical standards of practice for persons certified to practice underground oil ~~or underground hazardous substance~~ storage tank installation and removal and underground gasoline storage tank removal.

Sec. 6. 32 MRSA §10006, sub-§1, as amended by PL 1989, c. 312, §3, is further amended to read:

1. Certification required. No person may practice, or profess to practice, as an underground oil ~~or underground hazardous substance~~ storage tank installer or underground gasoline storage tank remover in this State or use the words "underground oil storage tank installer," ~~"underground hazardous substance storage tank installer,"~~ "underground gasoline storage tank remover" or other words or letters to indicate that the person using the words or letters is a certified underground oil ~~or underground hazardous substance~~ storage tank installer practitioner or underground gasoline storage tank remover practitioner unless that person is certified in accordance with this chapter.

Sec. 7. 32 MRSA §10008, as amended by PL 1987, c. 410, §8, is further amended to read:

§10008. Reciprocity

A person who is a resident of the State and has been certified in another state as an underground oil ~~or underground hazardous substance~~ storage tank installer may, upon payment of a fee as established under section 10012, obtain a certification as an underground oil ~~or underground hazardous substance~~ storage tank installer, provided that a person submits satisfactory evidence of certification as an underground oil ~~or underground hazardous substance~~ storage tank installer in another state under qualifications equivalent to those specified in this chapter.

Sec. 8. 32 MRSA §10010, first ¶, as amended by PL 1989, c. 312, §6, is further amended to read:

An applicant applying for certification as an underground oil storage tank installer~~, an underground hazardous substance tank installer~~ or an underground gasoline storage tank remover ~~shall~~ must file a written application provided by the board, showing to the satisfaction of the board that that person meets the following requirements.

Sec. 9. 32 MRSA §10010, sub-§4, as amended by PL 1989, c. 845, §9, is repealed.

Sec. 10. 32 MRSA §10010, sub-§5, ¶B, as amended by PL 1989, c. 845, §10, is further amended to read:

B. Completion of a successful removal of an underground oil storage tank, excluding a tank used for the storage of ~~motor fuel excluding~~ Class I liquids, under the supervision of a designated representative of the Department of Environmental Protection. The board may include in this requirement that the applicant successfully demonstrate knowledge relative to the use of equipment for monitoring gasoline vapors.

Sec. 11. 32 MRSA §10010-A, as amended by PL 1989, c. 845, §11, is further amended to read:

§10010-A. Certification requirements regarding on-site removal of underground oil storage tank used for storage of motor fuel under supervision of designated representative of Department of Environmental Protection

To provide for the completion of the on-site ~~installation of an underground hazardous substance storage tank or~~ removal of an underground oil storage tank used for the storage of motor fuel under the supervision of a designated representative of the Department of Environmental Protection, the Board of Underground Storage Tank Installers may issue a provisional certificate valid for no more than 6 months after issuance to tank ~~installers and~~ removers who have successfully completed the examination requirements pursuant to section 10010.

When the board determines that reasonable extenuating circumstances prevent the administration or completion of an on-site ~~installation or~~ removal within the 6-month provisional certification period, it may grant one renewal of a provisional certificate for a specific limited time not to exceed 3 months.

The board shall establish a written set of criteria to be used as a checklist by the representative of the Department of Environmental Protection designated to supervise the on-site ~~installation or~~ removal to ensure that each ~~installation or~~ removal is evaluated consistently and equitably.

Sec. 12. 32 MRSA §10011, sub-§1, as amended by PL 1991, c. 817, §7, is further amended to read:

1. Requirements; fees. Only a person satisfying the requirements of section 10010, subsections 1 and 2 may apply for examination in the manner prescribed by the board. The application must be accompanied by the nonrefundable fee prescribed by section 10012. A person who fails either part of the applicable examination specified in section 10010, subsection 3~~, 4~~ or 5 may apply for reexamination upon payment of the prescribed fee.

Sec. 13. 32 MRSA §10011, sub-§2, as amended by PL 1989, c. 312, §12, is further amended to read:

2. Content. The written examination ~~shall~~ must test the applicant's knowledge of the skills and knowledge relating to storage tank installation or removal and such other subjects as the board requires to determine the applicant's fitness to practice. The board shall approve examinations required by this chapter for underground oil storage tank installers~~, underground hazardous substance storage tank installers~~ and underground gasoline storage tank removers and establish standards for an acceptable performance.

Sec. 14. 32 MRSA §10012, sub-§2, as amended by PL 1991, c. 499, §8, is further amended to read:

2. Disposal of fees and civil penalties. All fees and civil penalties as authorized by section 10015 received by the board related to underground oil storage tank installers or underground gasoline storage tank removers must 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 all applicable provisions of this chapter. ~~All fees and civil penalties as authorized by section 10015 received by the board related to underground hazardous substance~~

~~storage tank installers must be paid to the Treasurer of State to be deposited into the Hazardous Waste Fund and used for the purpose of carrying out all applicable provisions of this chapter.~~ Any balance of fees and civil penalties as authorized by section 10015 ~~in the respective accounts~~ does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 15. 32 MRSA §10014, sub-§2, as amended by PL 1989, c. 312, §14, is further amended to read:

2. Inactive status. Upon request, the board shall grant inactive status to certified persons who do not practice or present themselves as underground oil tank installers~~, underground hazardous substance storage tank installers~~ or underground gasoline storage tank removers and maintain any continuing competency requirements established by the board.

Sec. 16. 32 MRSA §10015, sub-§2, ¶B, as amended by PL 1989, c. 845, §12, is further amended to read:

B. Unprofessional conduct, including any gross negligence, incompetency or misconduct in the certified person's performance of the work of underground oil storage tank installation or removal~~, underground hazardous substance storage tank installation or removal,~~ or underground gasoline storage tank removal or violation of any standard of professional behavior established by the board;

Sec. 17. 38 MRSA §341-D, sub-§1-A, as enacted by PL 1995, c. 347, §2, is amended to read:

1-A. Stay. Except to the extent the department determines that a proposed rule implements a state law that is more stringent than the corresponding federal statute or regulation, any provision of the proposed rule that is determined by the department to be more stringent than the corresponding federal statute or regulation must be stayed for 60 days following adoption. During this 60-day period, interested persons may petition the board to have the Legislature review those provisions of the proposed rule that have been determined to be more stringent. The filing with the board of petitions from 5 or more interested persons stays the effective date of those provisions of the rule until 60 days after the filing, if the Legislature is then in session. If the Legislature is not then in session and is not scheduled to convene within the next 60 days, then those provisions of the rule that have been determined to be more stringent are stayed for 60 days after filing of the petitions to permit consultation between the legislative committee of jurisdiction, the department and other interested persons. Copies of the petitions that are filed, along with a statement from the department outlining the provisions of the rule that have been determined to be more stringent and the accompanying basis statement, must be submitted by the department to the Executive Director of the Legislative Council pursuant to Title 5, section 8053-A, subsection 3 upon receipt of the petitions. This subsection applies to new rules that are adopted by the board after the effective date of this subsection. Any major substantive rule that has been subject to legislative review under Title 5, section 8072 after provisional adoption is exempt from the stay and petition provisions under this subsection.

This subsection is repealed January 1, 1998.

Sec. 18. 38 MRSA §341-G, first ¶, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, is amended to read:

There is established the Board of Environmental Protection Fund to be used by the board as a nonlapsing fund to carry out its duties under this Title. Notwithstanding any other provision of law, the funds identified in subsection 1 shall transfer annually to the Board of Environmental Protection Fund an amount not to exceed ~~$150,000~~ $250,000. Money in the Board of Environmental Protection Fund may only be expended in accordance with allocations approved by the Legislature.

Sec. 19. 38 MRSA §480-F, sub-§1, as amended by PL 1995, c. 267, §1, is repealed and the following enacted in its place:

1. Delegation. A municipality may apply to the board for authority to issue all permits under this article or for partial authority to process applications for permits involving activities in specified protected natural resources or for activities included in chapter 305 of the department's rules, addressing permit by rule. The board shall grant such authority if it finds that the municipality has:

A. Established a planning board and a board of appeals;

B. Adopted a comprehensive plan and related land use ordinances determined by the State Planning Office to be consistent with the criteria set forth in Title 30-A, chapter 187, subchapter II and determined by the commissioner to be at least as stringent as criteria set forth in section 480-D;

C. The financial, technical and legal resources to adequately review and analyze permit applications and oversee and enforce permit requirements;

D. Made provision by ordinance or rule for:

(1) Prompt notice to the commissioner of all applications received except for those activities included in chapter 305 of the department's rules, addressing permit by rule; and

(2) Prompt notice to the public upon receipt of application and written notification to the applicant and the commissioner of the issuance or denial of a permit stating the reasons for issuance or denial, except for those applications for which no public notice or written decision is required;

E. Provided an application form that is substantially the same as that provided by the commissioner; and

F. Appointed a code enforcement officer, certified by the Department of Economic and Community Development.

Sec. 20. 38 MRSA §480-F, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §74, is repealed and the following enacted in its place:

2. Procedure. The following procedures apply to applications under this article processed by municipalities.

A. For applications processed by municipalities except those described in chapter 305 of the department's rules, no permit issued by a municipality may become effective until 30 days subsequent to its receipt by the commissioner, but, if approved by the department in less than 30 days, the effective date is the date of approval. A copy of the application for the permit and the permit issued by the municipality must be sent to the commissioner, immediately upon its issuance, by registered mail. The department shall review that permit and either approve, deny or modify it as necessary. If the department does not act within 30 days of its receipt of the permit by the municipality, this constitutes its approval and the permit is effective as issued, except that within this 30-day period the department may extend the time for its review an additional 30 days.

B. For those applications for approval of activities described in chapter 305 of the department's rules, a copy of the municipality's action to approve or deny an application must be sent to the commissioner within 14 days of the municipality's decision.

Sec. 21. 38 MRSA §490-D, sub-§6-B is enacted to read:

6-B. Medium borrow pits unlicensed on October 1, 1993. Notwithstanding subsection 6-A, the following provisions apply to a medium borrow pit that on October 1, 1993 was not licensed under article 6 and on which gravel had been extracted closer than 50 feet to a public or private road.

A. The department may not require the owner or operator of a medium borrow pit to reestablish the required natural buffer strip as a condition of operation.

B. The owner or operator of a medium borrow pit shall regrade and seed the sideslopes to a slope no steeper than 2 horizontal feet for each vertical foot unless otherwise approved by the department.

The owner or operator of a medium borrow pit shall install visual screening and safety measures as required by the department.

Sec. 22. 38 MRSA §490-Y, first ¶, as enacted by PL 1995, c. 700, §35, is amended to read:

Except as provided in section 484-A, a person intending to create or operate a quarry under this article must file a notice of intent to comply before the total area of excavation of rock or overburden on the parcel exceeds one acre. Both reclaimed and unreclaimed areas are added together in determining whether this one-acre threshold is exceeded. A notice filed under this section must be complete, submitted on forms approved by the department and mailed to the municipality where the quarry is located, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the municipality and each abutting property owner must be mailed at least 7 days before the notice of intent to comply is filed with the regulator. The notice that is mailed to the department must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the quarry. The municipality where the proposed quarry is located may submit comments to the department if the proposed quarry may pose an unreasonable adverse impact under the standards in section 490-Z. Within 30 days of receipt of the notice of intent to comply, the department shall respond to the comments made by the municipality.

Sec. 23. 38 MRSA §490-Z, sub-§13, ¶B, as enacted by PL 1995, c. 700, §35, is amended to read:

B. A vegetative cover must be established by seeding or planting within one year of the completion of excavation. Vegetative cover must be established on all affected land~~, including safety benches,~~ except for quarry walls and flooded areas. A vegetative cover must be established on

safety benches, unless otherwise approved by the department. Topsoil must be placed, seeded and mulched within 30 days of final grading. Vegetative cover is acceptable if within one year of seeding:

(1) The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and

(2) The planting of all material results in permanent 90% ground cover.

Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these.

Sec. 24. 38 MRSA §490-EE, sub-§3, ¶C, as enacted by PL 1995, c. 700, §35, is amended to read:

C. A fee of $250 for each variance requested under section 490-CC, except for the following:

(1) A fee of $500 for a variance to excavate below the seasonal high water table;

(2) A fee of $500 for a variance to create an externally drained quarry;

(3) A fee of $125 for a variance to waive the topsoil salvage requirement; and

(4) A fee of $125 for a variance to waive the monitoring requirements for airblasts and ground vibration; and

~~(5) A fee of $250 upon filing a notice of intent to expand under section 490-EE; and~~

Sec. 25. 38 MRSA §542, sub-§9-C is enacted to read:

9-C. Responsible party. "Responsible party" means any person who could be held liable under section 552.

Sec. 26. 38 MRSA §551, sub-§4, ¶A, as repealed and replaced by PL 1991, c. 454, §9 and affected by §14, is amended to read:

A. License fees are ~~determined on the basis of 4¢ per barrel until July 1, 1994 and~~ 3¢ per barrel ~~after July 1, 1994,~~ of unrefined crude oil and all other refined oil, including #6 fuel oil, #2 fuel oil, kerosene, gasoline, jet fuel and diesel fuel, transferred by the licensee during the licensing period and must be paid monthly by the licensee on the basis of records certified to the commissioner. License fees must be paid to the department and upon receipt by it credited to the Maine Coastal and Inland Surface Oil Clean-up Fund.

Sec. 27. 38 MRSA §551, sub-§4, ¶D, as repealed and replaced by PL 1991, c. 454, §10 and affected by §14, is amended to read:

D. Any person ~~who is~~ required to register ~~with the commissioner pursuant to~~ under section 545-B and who first transports oil in Maine shall pay ~~fees that are determined on the basis of 4¢ per barrel until July 1, 1994 and~~ 3¢ per barrel ~~after July 1, 1994,~~ for all refined oil, including #6 fuel oil, #2 fuel oil, kerosene, gasoline, jet fuel, diesel fuel and liquid asphalt transported by the registrant during the period of registration. Fees must be paid monthly by the registrant on the basis of records certified to the commissioner. Fees must be paid to the department and upon receipt by it credited to the Maine Coastal and Inland Surface Oil Clean-up Fund. The registrant shall make available to the commissioner and the commissioner's authorized representatives all documents relating to the oil transported by the registrant during the period of registration. This paragraph does not apply to waste oil transported into Maine 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. 28. 38 MRSA §551, sub-§6-A is enacted to read:

6-A. Lien. All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil are a lien against the real estate of the responsible party. The lien does not apply to the real estate of a licensee if the discharge was caused or suffered by a carrier destined for the licensee's facilities.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was re-

corded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

Sec. 29. 38 MRSA §551, last ¶, as enacted by PL 1991, c. 817, §19, is repealed.

Sec. 30. 38 MRSA §552, sub-§2, as amended by PL 1991, c. 698, §13, is further amended to read:

2. State need not plead or prove negligence. ~~Because it is the~~ The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages ~~as well as indirect damages~~ and the proliferation of ~~3rd party~~ 3rd-party claims. Accordingly, any person, vessel, licensee, agent or servant, including ~~carriers~~ a carrier destined for or leaving a licensee's facility while within state waters, who permits or suffers a prohibited discharge or other polluting condition to take place is liable to the State for all disbursements made by it pursuant to section 551, subsection 5, paragraphs B, D, E, H and I, or other damage incurred by the State, including damage for injury to, destruction of, loss of, or loss of use of natural resources and the reasonable costs of assessing natural resources damage. In any suit to enforce claims of the State under this section, to establish liability, it is not necessary for the State to plead or prove negligence in any form or manner on the part of the person causing or suffering the discharge or licensee responsible for the discharge. The State need only plead and prove the fact of the prohibited discharge or other polluting condition and that the discharge occurred at facilities under the control of the licensee or was attributable to carriers or others for whom the licensee is responsible as provided in this subchapter or occurred at or involved any real property, structure, equipment or conveyance under the custody or control of the person causing or suffering the discharge.

Sec. 31. 38 MRSA §552, sub-§4, ¶B, as enacted by PL 1991, c. 380, §2, is amended to read:

B. Paragraph A does not apply:

(1) To personal injury or wrongful death;

(2) If the responder is grossly negligent or engages in willful misconduct; or

(3) To a responsible party. ~~For the purposes of this subsection, "responsible party" means any person who caused or is otherwise responsible for the discharge or threatened discharge with respect to which the responder's actions are taken or omissions occur.~~

Sec. 32. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1995, c. 399, §13 and affected by §21, is further amended to read:

A. Administrative expenses, ~~personnel expenses~~ personal services and equipment costs of the department related to the administration and enforcement of this subchapter ~~and any loans to the Maine Coastal and Inland Surface Oil Clean-up Fund made prior to June 30, 1995 pursuant to this section. Except for disbursements for capital costs related to paragraph B or C, administrative expenses, personnel expenses and equipment costs may not exceed $1,734,000 per fiscal year~~ , except that total disbursements for personal services may not exceed $2,000,000 per fiscal year, multiplied by an annual adjustment factor of 4% beginning in fiscal year 1999;

Sec. 33. 38 MRSA §569-A, sub-§8, ¶A-1 is enacted to read:

A-1. Repayment of loans made to the Ground Water Oil Clean-up Fund from the Maine Coastal and Inland Surface Oil Clean-up Fund;

Sec. 34. 38 MRSA §569-A, sub-§10-A is enacted to read:

10-A. Lien. All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil from an aboveground or underground storage facility are a lien against the real estate of the responsible party. For a responsible party determined eligible for coverage under section 568-A, subsection 1, the lien is for the amount of any unpaid deductible assigned under section 568-A, subsection 2 or for eligible clean-up costs and 3rd-party damage claims above $1,000,000.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the

State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

Sec. 35. 38 MRSA §569-B, sub-§6-A is enacted to read:

6-A. Lien. All costs incurred by the State in the removal, abatement and remediation of a prohibited discharge of oil from an aboveground or underground storage facility are a lien against the real estate of the responsible party.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

Sec. 36. 38 MRSA §570, first ¶, as amended by PL 1991, c. 817, §29 and affected by §30, is further amended to read:

~~Because it is the~~ The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages ~~as well as indirect damages~~ and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-A, subsection 8, paragraphs B, D, E, H and J, or other damage incurred by the State, including interest computed at 15% a year from the date of expenditure, ~~except for costs found by the commissioner to be eligible for coverage under the fund~~ and damage for injury to, destruction of, loss of, or loss of use of natural resources and the reasonable costs of assessing natural resources damage. The commissioner shall demand reimbursement of costs and payment of damages that are not eligible for coverage by the fund to be recovered under this section and payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

Sec. 37. 38 MRSA §585-D, sub-§2, as enacted by PL 1993, c. 358, §1, is amended to read:

2. Ozone transport region adoption. Jurisdictions comprising more than 60% of the total registrations of new passenger cars ~~and light-duty trucks~~ in the ozone transport region have adopted a low-emission vehicle program that meets the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Section 7507 and the first model year required to meet standards under the low-emission vehicle program in any of those states is not later than motor vehicle model year ~~1998~~ 2000. For purposes of this paragraph, "ozone transport region" means the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont, and the consolidated metropolitan statistical area that includes the District of Columbia.

Sec. 38. 38 MRSA §585-D, as enacted by PL 1993, c. 358, §1, is amended by adding a new paragraph at the end to read:

The commissioner shall complete a study of zero-emission vehicles and submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 2000. This study must include an examination of zero-emission vehicle technology, price, performance and consumer acceptability and implementation issues relating to use of those vehicles in the State. The study must recommend any rulemaking necessary for the board to establish a zero-emission vehicle program that is appropriate for the State and a schedule that provides the automobile manufacturers with a minimum 2-year lead time prior to implementation of such a program. Any rules establishing a zero-emission vehicle program are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 39. 38 MRSA §1318-B, sub-§1, as amended by PL 1995, c. 642, §10, is further amended to read:

1. Reporting. Except as provided in this subsection, the responsible party or person causing the discharge shall report a discharge immediately to the Department of Public Safety, which shall immediately notify the Commissioner of Environmental Protection and the public safety agency of the municipality in which the discharge takes place. Upon submission to the commissioner of a written spill prevention control and clean-up plan that meets the criteria of section

1318-C, subsection 1, a discharge containing a hazardous matter that is covered by the plan must be reported only if the discharge equals or exceeds the applicable reportable quantity for that particular hazardous matter as specified in Code of Federal Regulations, Title 40, Parts 302.4, 302.5 and 302.6 (b)(1)), revised as of July 1, 1994 1996, or when the discharge extends or spreads beyond the area on the site covered by the spill prevention control and clean-up plan.

Sec. 40. 38 MRSA §1319, sub-§1, ¶A, as enacted by PL 1979, c. 730, §2, is amended to read:

A. Any substance which has been designated as hazardous by the United States Environmental Protection Agency in proposed or final regulations under the United States Clean Water Act, Section 311, Public Law 92-500 federal Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code, Section 9602, and any substance identified as hazardous waste under section 1319-O may be identified by rule as hazardous matter by the board.

Sec. 41. 38 MRSA §1319-U, sub-§4, as reallocated by PL 1987, c. 517, §20, is amended to read:

4. Procedure. The Attorney General may seek forfeiture of a conveyance according to the procedure set forth in Title 22 15, section 2387 5822, subsections 4, 5 and 6 with the following exceptions.

A. A final order issued by the court under that procedure shall must provide for disposition of the conveyance by the Department of Administration Administrative and Financial Services, including official use by a public agency or sale at public auction or by competitive bidding.

B. The proceeds of a sale shall must 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.

C. Records, required by Title 22 15, section 2387 5825, subsection 5, shall must be open to inspection by all federal and state officers charged with enforcement of federal and state laws relating to the handling of hazardous waste.

See title page for effective date.

CHAPTER 365

H.P. 963 - L.D. 1326

An Act to Clarify the Responsibilities of the Institute Councils of the Augusta Mental Health Institute and the Bangor Mental Health Institute

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

Sec. 1. 34-B MRSA §3607, first ¶, as enacted by PL 1995, c. 691, §7, is amended to read:

The department shall establish 9 7 quality improvement councils, called area councils, to oversee evaluate the delivery of mental health services to children and adults under the authority of the department and to advise the department regarding quality assurance, systems development and the delivery of mental health services to children and adults under the authority of the department. The department shall also establish 2 institute councils to evaluate the delivery of mental health services at the 2 state mental health institutes and advise the department regarding quality assurance, operations and functions of the mental health institutes.

Sec. 2. 34-B MRSA §3607, sub-§10 is enacted to read:

10. Institute councils. Within the limitations of state and federal law, adequate information must be provided by the mental health institutes and the department to the institute councils to perform their duties, including but not limited to:

A. Input into the annual budgets of the mental health institutes;

B. Achievement of the goals and objectives of the department as they pertain to the mental health institutes;

C. Compliance with all professional accreditation standards applicable to the mental health institutes;

D. Review, oversight and assessment of services and programs provided to residents of the mental health institutes and their families;

E. Review of personnel policies and employment patterns, including staffing requirements