

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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

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Augusta, Maine
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Sec. 22. Authorization to report out legislation. The Joint Standing Committee on Agriculture, Conservation and Forestry and the Joint Standing Committee on Natural Resources may report out legislation during the Second Regular Session of the 119th Legislature regarding the regulatory responsibilities of the Maine Land Use Regulation Commission and the Department of Environmental Protection. The legislation may propose reassigning the regulatory responsibilities of the 2 agencies to eliminate or reduce duplicative project review and permitting.

See title page for effective date.

CHAPTER 334

H.P. 1140 - L.D. 1625

An Act to Clarify Certain Laws Administered by the Department of Environmental Protection, Bureau of Remediation and Waste Management

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

Sec. 1. 38 MRSA §551, sub-§4-A is enacted to read:

4-A. Penalty for late payment of fees. Fees assessed under subsection 4 are due to the department on or before the last day of the month immediately following the month in which the oil was transferred or first transported in this State. Licensees or registrants who fail to pay the fee by that date shall pay an additional amount equal to 10% of the amount assessed under subsection 4. The department may waive the penalty for good cause shown by the licensee or registrant. Good cause may include, without limitation, events that may not be reasonably anticipated or events that were not under the control of the licensee or registrant.

Sec. 2. 38 MRSA §566-A, sub-§4, as amended by PL 1991, c. 817, §20, is further amended to read:

4. Commissioner role. If the owner of an underground oil storage facility or tank fails to properly abandon the facility or tank within a reasonable time period, the commissioner may undertake the abandonment. The commissioner shall collect any reimbursement due the Ground Water Oil Clean-up Fund in accordance with section 569-A or 569-B. Costs incurred by the commissioner to undertake the abandonment are a lien against the real estate of the owner as provided under section 569-A, subsection 10-A and section 569-B, subsection 6-A.

Sec. 3. 38 MRSA §569-A, sub-§5-A is enacted to read:

5-A. Penalty for late payment of fees. Fees assessed under subsection 5, paragraph A are due to the department on or before the last day of the month immediately following the month in which the oil was transferred or first transported in Maine. Licensees or registrants who fail to pay the fee by that date shall pay an additional amount equal to 10% of the amount assessed under subsection 5.

Sec. 4. 38 MRSA §569-A, sub-§10-A, as enacted by PL 1997, c. 364, §34, is amended 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 and all costs incurred by the State in the abandonment of an underground oil storage facility or tank under section 566-A, subsection 4 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. 5. 38 MRSA §569-B, sub-§4-A is enacted to read:

4-A. Penalty for late payment of fees. Fees assessed under subsection 4 are due to the department on or before the last day of the month immediately following the month in which the oil was transferred. Licensees who fail to pay the fee by that date shall pay

an additional amount equal to 10% of the amount assessed under subsection 4.

Sec. 6. 38 MRSA §569-B, sub-§6-A, as enacted by PL 1997, c. 364, §35, is amended 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 and all costs incurred by the State in the abandonment of any underground oil storage facility or tank under section 566-A, subsection 4 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. 7. 38 MRSA §570-E, as enacted by PL 1985, c. 496, Pt. A, §14, is amended to read:

Rules adopted by the board under this subchapter ~~shall~~ must be submitted for review by the joint standing committee of the Legislature having jurisdiction over ~~energy and natural resources and, until December 1, 1987, to the joint standing committee of the Legislature having jurisdiction over audit and program review matters.~~ In reviewing the rules ~~promulgated~~ adopted by the board under this subchapter, ~~these legislative committees shall~~ the committee must be guided by the provisions of Title 5, chapter 377-A.

Sec. 8. 38 MRSA §570-K, sub-§3, as amended by PL 1997, c. 624, §8, is further amended to read:

3. Underground piping installation. All underground piping, whether replacement or new, associated with an aboveground oil storage facility must be installed, operated, maintained and removed: in accordance with sections 564, 565 and 566-A and

all rules adopted by the board pursuant to sections 564, 565 and 566-A.

~~A. In accordance with section 564 or other applicable design, installation, closure and removal rules adopted by the board; and~~

~~B. By persons certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A.~~

Sec. 9. 38 MRSA §1291, sub-§17-C, as enacted by PL 1997, c. 624, §11, is amended to read:

17-C. Lead inspection. "Lead inspection" means a surface-by-surface ~~investigation~~ assessment to determine the presence of lead-based paint.

Sec. 10. 38 MRSA §1303-C, sub-§42, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

42. Waste oil. "Waste oil" means a ~~petroleum based petroleum-based or synthetic~~ oil which that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. Waste oil ~~which that~~ exhibits hazardous wastes characteristics, or which has been contaminated with hazardous wastes in excess of quantities normally occurring in waste oil, ~~shall be~~ is subject to the provisions of this chapter dealing with hazardous wastes.

Sec. 11. 38 MRSA §1310-F, sub-§2, ¶E is enacted to read:

E. If the municipality has taken reasonable steps to anticipate and abate threats posed by a municipal landfill, a municipality is eligible to receive a maximum reimbursement of 50% of the remediation costs related to any threat posed by the municipal landfill to wells or other structures constructed after December 31, 1999.

Sec. 12. 38 MRSA §1310-H-1 is enacted to read:

§1310-H-1. Notice to subsequent owners

The owner of a parcel of land upon which a closed or abandoned municipal solid waste landfill is located shall include notice of the presence of the landfill in any deed transferring ownership of all or part of the parcel and in any easement conveying a right of use to all or part of the parcel.

Sec. 13. 38 MRSA §1319, sub-§2, ¶C, as enacted by PL 1979, c. 730, §2, is amended to read:

~~C. Exempt type of types or methods of discharges of hazardous matter from the requirements of this subchapter that the board~~

determines do not present danger, imminent, present or delayed, to the people of the State or to its natural environment.

See title page for effective date.

CHAPTER 335

H.P. 917 - L.D. 1295

An Act Regarding Continuing Education for Professional Land Surveyors

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

Sec. 1. 32 MRSA §13908, sub-§4, last ¶, as amended by PL 1995, c. 353, §26, is repealed.

Sec. 2. Rules enacted by the Board of Licensure for Professional Land Surveyors. All continuing education rules enacted by the Board of Licensure for Professional Land Surveyors that were in effect on February 28, 1999 remain in effect upon passage of this Act and may only be altered pursuant to the Maine Revised Statutes, Title 5, chapter 375.

Sec. 3. Retroactivity. This Act applies retroactively to February 28, 1999.

See title page for effective date.

CHAPTER 336

H.P. 1000 - L.D. 1398

An Act to Secure Environmental and Economic Benefits from Electric Utility Restructuring

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

Sec. 1. 5 MRSA §3305, sub-§1, ¶K, as repealed and replaced by PL 1995, c. 625, Pt. A, §7, is repealed.

Sec. 2. 5 MRSA §3305-B is enacted to read:

§3305-B. Additional powers; energy policy

1. Coordination of energy policy. The office shall coordinate the development of energy policy by:

A. Collecting and analyzing energy data from all available energy sources in the State. Upon request of a company engaged in the wholesale and retail trade of petroleum products in the State, the director may designate as confidential

information documents and data dealing with sales of that company. Information designated confidential by the director under this paragraph is not a public record and is not subject to disclosure under Title 1, chapter 13, subchapter I;

B. Preparing and submitting to the Governor and the Legislature every 2 years an energy resources plan that includes:

(1) A description of historical energy demand by end-use sector and energy resources used to meet that demand; and

(2) A forecast of energy demand, including electric and gas energy demand, by end-use sector for the next 5 years, 10 years and 20 years;

C. Encouraging and directing or sponsoring research, experiments and demonstration projects within the State to develop alternate energy sources, particularly, but not limited to, those sources that rely on renewable natural resources of the State, such as solar energy, water of tides and rivers, forests, winds and other sources that to date have not been fully explored or utilized;

D. Providing conservation alternatives to proposed new electric power generating plants and transmission and distribution facilities and assessing the long-term and short-term energy savings realized by the conservation alternatives; and

E. Coordinating the actions of state agencies that affect the consumption of energy with the objective of securing the environmental and economic benefits of electric industry restructuring occurring pursuant to Title 35-A, chapter 32.

2. Conservation programs. The office shall guide the development of statewide conservation programs to be implemented by transmission and distribution utilities pursuant to Title 35-A, section 3211 by:

A. Creating objectives and an overall energy strategy for such conservation programs, including implementation guidance on the use of competitive bidding or alternative contractual arrangements when program requirements make such arrangements preferable for the achievement of program objectives;

B. Revising program objectives and the overall energy strategy from time to time on a schedule to be determined by the office;

C. Reviewing and approving proposed utility implementation plans, including proposed com-