

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

Less than 1,320	\$500
1,321 to 50,000	2,500
50,001 to 250,000	5,000
250,001 to 500,000	10,000
500,001 to 1,000,000	25,000
1,000,001 to 1,500,000	40,000
greater than 1,500,000	62,500

(3) For facilities with both aboveground and underground tanks when the source of the discharge can not be determined or when the discharge is from both types of tanks, the standard deductible is the applicable amount under subparagraph (1) or (2), whichever is greater.

See title page for effective date.

CHAPTER 505

H.P. 1141 - L.D. 1626

An Act to Assist in the Cleanup of the Town of Wells Maine Waste Oil Site

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

PART A

Sec. A-1. 5 MRSA §1513, sub-§1-L is enacted to read:

1-L. Transfer from Maine Rainy Day Fund; Wells Waste Oil Clean-up Fund. Notwithstanding subsection 2 and section 1585, \$3,100,000 must be transferred by the State Controller from the available balance in the Maine Rainy Day Fund to the Wells Waste Oil Clean-up Fund established in Title 10, section 1023-L no later than September 30, 1999.

Sec. A-2. 10 MRSA §963-A, sub-§42-C is enacted to read:

42-C. Orphan share. "Orphan share" means the percentage of the total response costs payable by parties who are bankrupt, dissolved, insolvent or no longer in business or whose current identity or location can not be determined.

Sec. A-3. 10 MRSA §963-A, sub-§47-A is enacted to read:

47-A. Responsible party. "Responsible party" has the same meaning as set forth in Title 38, section 1362, subsection 2 and has the same meaning as the term "potentially responsible party" as defined in 40 Code of Federal Regulations, Section 304-12(m).

Sec. A-4. 10 MRSA §963-A, sub-§49-G is enacted to read:

49-G. Total response costs. "Total response costs" means the total costs that have been or will be paid in association with the Portland-Bangor Waste Oil Services Site in Wells. "Total response costs" includes any payments that either have been made or will be made to the Department of Environmental Protection or any payments that either have been made or will be made as a total or partial settlement with any entity that assumes that person's liability at that site. "Total response costs" includes costs incurred by the Department of Environmental Protection or 3rd parties in connection with the investigatory, removal or remedial activities regarding the Portland-Bangor Waste Oil Services Site in Wells.

Sec. A-5. 10 MRSA §963-A, sub-§§51-B and 51-C are enacted to read:

51-B. Waste oil. "Waste oil" means a petroleum-based oil 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" includes mixtures of waste oil and water.

51-C. Waste oil disposal site. "Waste oil disposal site" means the Portland-Bangor Waste Oil Services Site in Wells designated by the Department of Environmental Protection as an uncontrolled hazardous substance site.

Sec. A-6. 10 MRSA §1023-D, sub-§2, as amended by PL 1995, c. 399, §1 and affected by §21, is further amended to read:

2. Sources of money. There must be paid into the fund the following:

- A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of underground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation;
- B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;
- C. Subject to any pledge, contract or other obligations, any money the authority receives in repayment of advances from the fund; and
- D. Any other money available to the authority and directed by the authority to be paid into the fund.

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any

money for inclusion in the fund, ~~including but not limited to the assessment or transfer of fees under Title 38, section 569 A, subsection 6,~~ the authority may borrow funds for application to the fund. All funds borrowed pursuant to this authorization, including interest on the borrowed funds, must be repaid from such fees or by other appropriation.

Sec. A-7. 10 MRSA §1023-L is enacted to read:

§1023-L. Wells Waste Oil Clean-up Fund

1. Fund established. The Wells Waste Oil Clean-up Fund, referred to in this section as the "fund," is established under the jurisdiction and control of the authority.

2. Sources of money. The following money must be paid into the fund:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to responsible parties as defined in section 963-A, subsection 47-A, subject to any restrictions applicable to the appropriation;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

C. Subject to any pledge, contract or other obligation any money the authority receives in repayment of advances from the fund;

D. Money transferred from the available balance in the Underground Oil Storage Replacement Fund, subject to the limitations of section 1024-A;

E. Money transferred from the available balance in the Maine Rainy Day Fund pursuant to Title 5, section 1513, subsection 1-L; and

F. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Eligibility to participate in loan program. The authority may use money in the fund to carry out any power of the authority under this section or under section 1026-Q, including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the waste oil disposal site clean-up project when the authority determines that:

A. The applicant is determined to be a responsible party with respect to the waste oil disposal site and the applicant is domiciled or has a principal place of business in the State;

B. If the applicant is not a unit of local government, the applicant demonstrates financial need for the assistance;

C. There is a reasonable likelihood that the applicant will be able to repay the loan; and

D. An agreement has been reached with an entity that has assumed liability for total response costs at the Wells waste oil disposal site.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority may not issue deferred loans for eligible parties who have received payments under subsection 8. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under \$2000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The authority may charge an interest rate as low as 0% or up to a maximum rate equal to the prime rate of interest as published in The Wall Street Journal, depending on the financial ability of the applicant to pay as determined by the authority. The maximum the authority may loan, or issue as a deferred loan, to any one borrower, including related entities as determined by the authority, is \$50,000. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law. Any costs incurred by the authority in administering this fund may be taken from interest from all sources of the fund.

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds for waste oil cleanup.

5. Payments on loans from fund; proceeds from mortgage or security interests. All proceeds of loans and proceeds from mortgage or security interests from the fund must be applied by the authority to the Underground Oil Storage Replacement Fund.

6. Lapse to Groundwater Oil Clean-up Fund upon cleanup of waste oil disposal site. Within 30 days after the Department of Environmental Protection notifies the authority that the waste oil disposal site has been remediated and the total response costs have been paid, the authority shall transfer all amounts remaining in the fund to the Groundwater Oil Clean-up Fund.

7. Direct payment program. The direct payment program is managed as follows.

A. The authority shall pay to each person, eligible under subsection 3, \$2,000 upon presentation by the person to the authority of a canceled check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under subsection 3 who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not exceed the person's settlement share of total response costs attributable to eligible persons as defined in this subsection multiplied by the total orphan share percentage at the waste oil disposal site. The authority may not issue deferred loans for eligible persons who have received payments pursuant to this subsection. This distribution must occur on April 1, 2000. Any remaining funds in the fund must be transferred to the Groundwater Oil Clean-up Fund.

For purposes of this subsection, "person" means any natural person domiciled in this State; a corporation or partnership in the State; the State; any agency, authority, department, commission, municipality, quasi-municipal corporation, special-purpose district or other instrumentality of the State; a political subdivision of the State, including but not limited to those defined in Title 14, chapter 741 and Title 30-A, chapter 225; any other entity identified as a responsible party at the waste oil disposal site; or an entity whose waste oil is identified as delivered to the waste oil disposal site and picked up from an address or location within the State in the records compiled by the Department of Environmental Protection or the United States Environmental Protection Agency or their agents, provided that neither the Federal Government nor any of its agencies, authorities, departments, boards, commissions or instrumentalities are eligible to have any share of their obligation for response costs paid by the fund.

8. Determinations regarding eligibility. The authority shall establish a registry of all persons who qualify under subsection 7 to have a portion of their share of total response costs paid pursuant to this section. The authority shall adopt rules relating to eligibility, including the calculation of an eligible person's proportionate share, procedures to ensure that money paid pursuant to this section is used to settle an eligible person's liabilities related to the waste oil disposal site and repayment of any amounts in excess of that person's share. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. A-8. 10 MRSA §1026-Q is enacted to read:

§1026-Q. Mortgage insurance for waste oil disposal site clean-up projects

1. Insurance. In addition to its other powers under this chapter, subject to the limitations of this subchapter except sections 1026-B to 1026-D, the authority may insure up to 100% of mortgage payments with respect to mortgage loans for the waste oil disposal site clean-up project when the authority determines that:

A. The applicant is a responsible party with respect to the waste oil disposal site and the applicant is domiciled or has a principal place of business in the State;

B. The applicant demonstrates a reasonable likelihood that it will not be able to obtain a loan for the project on reasonable terms without insurance pursuant to this section; and

C. The applicant demonstrates a reasonable likelihood that it will be able to repay the insured loan.

2. Limitation on mortgage insurance. The authority may not at any time have, in the aggregate amount of principal and interest outstanding, mortgage insurance obligations pursuant to this section exceeding \$1,000,000.

3. Mortgage eligibility. Pursuant to Title 5, chapter 375, subchapter II, the authority shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for insured mortgage loans under this section. The authority may accept less than adequate collateral when necessary to ensure the cleanup of the waste oil disposal site under applicable law. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. A-9. 38 MRSA §568-B, sub-§2, ¶C, as amended by PL 1995, c. 399, §7 and affected by §21, is further amended to read:

C. To contract with the Finance Authority of Maine for such assistance in fulfilling the board's duties as the board may require; ~~and~~

Sec. A-10. 38 MRSA §568-B, sub-§2, ¶D, as enacted by PL 1995, c. 399, §8 and affected by §21, is amended to read:

D. To monitor income and disbursements from the Ground Water Oil Clean-up Fund under section 569-A and adjust fees pursuant to section 569-A, subsection 5, paragraph E, as required to avoid a shortfall in the fund; ~~and~~

Sec. A-11. 38 MRSA §568-B, sub-§2, ¶E is enacted to read:

E. To consult with the Finance Authority of Maine at such times as are necessary, but no less than annually, to review income and disbursements from the Wells Waste Oil Clean-up Fund under Title 10, section 1023-L. The board, at such times and in such amounts as it determines necessary, and in consultation with the Finance Authority of Maine, shall direct the transfer of funds from the Underground Oil Storage Replacement Fund to the Groundwater Oil Clean-up Fund.

Sec. A-12. 38 MRSA §569-A, sub-§5, ¶A, as amended by PL 1997, c. 374, §6, is further amended to read:

A. Until December 31, 2005, a fee is assessed of ~~44¢~~ 38¢ per barrel of gasoline; ~~25¢~~ 19¢ 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. A-13. 38 MRSA §569-A, sub-§6, as amended by PL 1995, c. 399, §12 and affected by §21, is repealed.

Sec. A-14. 38 MRSA §570-H, sub-§2, as amended by PL 1995, c. 399, §20 and affected by §21, is further amended to read:

2. Adequacy of fund. On or before February 15th of each year, the Fund Insurance Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature with jurisdiction over ~~energy and~~ natural resources matters on the department's and the board's experience administering the fund, clean-up activities and 3rd-party damage claims. The report must also include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. The report must also include an assessment of the adequacy of the Underground Oil Storage Replacement Fund and the Wells Waste Oil Clean-up Fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this section, the board may order an independent audit of disbursements from the ~~fund~~ Groundwater Oil Clean-up Fund, the Underground Oil Storage Replacement Fund and the Wells Waste Oil Clean-up Fund.

Sec. A-15. Transfer of funds to the Wells Waste Oil Clean-up Fund. On the effective date of this Act, \$4,000,000 is transferred from the Underground Oil Storage Replacement Fund to the Wells Waste Oil Clean-up Fund. Funds transferred under this Act may only be used for the loan program pursuant to the Maine Revised Statutes, Title 10, section 1023-L.

Sec. A-16. Transfer to the Wells Waste Oil Clean-up Fund. After the State Controller closes the financial accounts of the State for the fiscal

year ending June 30, 1999, an amount not to exceed \$3,100,000 must be transferred by the State Controller to the Wells Waste Oil Clean-up Fund established in the Maine Revised Statutes, Title 10, section 1023-L from the available balance in the General Fund as the next priority after the State Contingent Account established in Title 5, section 1507 is replenished, to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor.

Sec. A-17. Report. The Department of Environmental Protection shall evaluate the status of the Wells Waste Oil Clean-up Fund and remediation of the Portland-Bangor Waste Oil Services Site in Wells, designated by the Department of Environmental Protection as an uncontrolled hazardous substance site. The department shall evaluate and report on the amounts disbursed under the Wells Waste Oil Clean-up Fund, and whether the Wells Waste Oil Clean-up Fund should be extended to other uncontrolled hazardous substance sites or federal superfund sites in the State. The department shall evaluate the components and substances at uncontrolled hazardous substance sites, including sites where waste oil constitutes more than 50% by volume of the substances delivered to the site. The department shall evaluate the need and the amount of any adjustment to the maximum balance in the Groundwater Oil Clean-up Fund. The department shall submit a report to the Joint Standing Committee on Natural Resources by December 31, 1999. Following the receipt of this report, the Joint Standing Committee on Natural Resources may introduce legislation to the Second Regular Session of the 119th Legislature.

PART B

Sec. B-1. Select commission established. The Select Commission to Study State Participation in Funding Cleanup and Remediation of Uncontrolled Hazardous Substance Sites, referred to in this Part as the "select commission," is established.

Sec. B-2. Membership. The select commission consists of 5 members appointed as follows.

1. The President of the Senate shall appoint 2 members from the Senate who serve on the Joint Standing Committee on Natural Resources.

2. The Speaker of the House of Representatives shall appoint 3 members of the House of Representatives who serve on the Joint Standing Committee on Natural Resources.

Sec. B-3. Chairs. The first Senate member named is the Senate Chair and the first House member named is the House Chair.

Sec. B-4. Appointment; convening commission. All appointments must be made no later than 30 days following the effective date of this Part. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, chairs of the select commission shall call and convene the first meeting of the select commission no later than 45 days following the effective date of this Part.

Sec. B-5. Duties. The select commission shall study state participation in funding cleanup and remediation of uncontrolled hazardous substance sites. The select commission shall also:

1. Evaluate the funding options available to help with the cleanup or remediation of uncontrolled hazardous substance sites, including an evaluation of the percentage of the total response costs payable by parties who are bankrupt, dissolved, insolvent or no longer in business or whose current identity or location can not be determined. In conducting this analysis, the select commission shall collaborate with the Department of Environmental Protection and the United States Environmental Protection Agency;

2. Evaluate the components and substances at uncontrolled hazardous substance sites; and

3. Evaluate uncontrolled hazardous substance sites where, at the time that the hazardous waste was delivered to the site, the delivery of the waste was not illegal under federal or state law.

Sec. B-6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the select commission.

Sec. B-7. Compensation. Legislative members of the select commission are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings.

Sec. B-8. Report. The select commission shall submit a report on its study along with any recommended legislation to the Joint Standing Committee on Natural Resources by December 31, 1999. Following the receipt of this report, the Joint Standing Committee on Natural Resources may introduce legislation to the Second Regular Session of the 119th Legislature. If the select commission requires an extension of time to make its report, it may apply to the Legislative Council, which may grant the extension.

Sec. B-9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1999-00

LEGISLATURE

Select Commission to Study State Participation in Funding Cleanup and Remediation of Uncontrolled Hazardous Substance Sites

Personal Services	\$1,375
All Other	1,750

Provides funds for the per diem and expenses of legislative members for 5 meetings of the Select Commission to Study State Participation in Funding Cleanup and Remediation of Uncontrolled Hazardous Substance Sites and to print the required report.

LEGISLATURE

TOTAL \$3,125

See title page for effective date.

CHAPTER 506

S.P. 594 - L.D. 1718

An Act to Ensure that Displaced Workers Have Access to Appropriate Job Training, Education and Employment Services through a Peer Support Program

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

Sec. 1. 26 MRSA c. 26-A is enacted to read:

CHAPTER 26-A

PEER SUPPORT PROGRAM FOR DISPLACED WORKERS

§2061. Program created

The Peer Support Program for Displaced Workers is created within the department to provide

advocacy and information for workers displaced by significant layoffs. The program may initiate one or more projects to assist employees as provided in this chapter and as resources permit. The department is authorized to use any available resources or to apply for federal grants to implement this chapter. Any funds appropriated by the Legislature for a pilot program or this program may not lapse but must be carried forward.

§2062. Peer Support Projects

1. Initiation of project. When 100 or more employees of a single employer are laid off, the department shall initiate a peer support project to assist the affected employees. The department may initiate a project when 50 or more employees are laid off if the bureau determines that a peer support project is warranted, after considering the particular needs of the affected workforce and the affected communities.

2. Employment and role of peer support workers. For each project, the department shall employ one or more peer support workers who must be displaced nonmanagerial employees from the affected workforce. The department shall attempt in all cases to hire one peer support worker for each 50 affected employees and to hire at least 2 peer support workers for each project. A peer support worker shall serve as a worker advocate and an information source connecting the affected workers and the State's workforce development programs. The peer support worker shall use the resources of local employment assistance programs as well as state programs. The department shall collaborate with employee representatives in hiring and overseeing peer support workers. The department shall ensure that peer support workers have an opportunity to receive training and to work as a team even if they are geographically dispersed.

3. Duration of project. The department shall determine the duration of each project, taking into consideration the size, scope and nature of the layoff and the period of time over which the layoffs occur.

Sec. 2. Report. The Department of Labor shall report to the Joint Standing Committee on Labor by January 14, 2000 on the status of the Peer Support Program for Displaced Workers funded in fiscal year 1999-00 and the availability of funding to continue the program in fiscal year 2000-01 and future biennia.

Sec. 3. Effective date. Section 1 of this Act takes effect July 1, 2000.

See title page for effective date, unless otherwise indicated.