

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2002 to April 25, 2002**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 25, 2002**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2002**

accordance with ~~Title 12, section 1886~~; Title 12, section 7053, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

**Sec. 21. 25 MRSA §2801-B, sub-§1, ¶B**, as amended by PL 1999, c. 682, §2, is further amended to read:

B. Agents or representatives of the Department of Conservation, Bureau of Parks and Lands, whose law enforcement powers are limited to those specified in Title 12, section ~~1821~~ 1806;

See title page for effective date.

## CHAPTER 605

H.P. 1513 - L.D. 2016

### An Act to Facilitate Compliance with Spill Prevention Requirements and Authorize Reimbursement for Certain Oil Spill Remediation Expenses

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

**Sec. 1. 38 MRSA §569-A, sub-§8, ¶A**, as amended by PL 1999, c. 278, §2, is further amended to read:

A. Administrative expenses, personal services and equipment costs of the department related to the administration and enforcement of this subchapter, except that total disbursements for personal services may not exceed ~~\$2,250,000~~ \$2,900,000 per fiscal year, multiplied by an annual adjustment factor of 4% beginning in fiscal year ~~1999~~ 2002-03;

**Sec. 2. 38 MRSA §570-K, sub-§4**, as enacted by PL 1993, c. 363, §17 and affected by §21, is amended to read:

**4. Exemption.** The following aboveground oil storage facilities are exempt from the requirements of ~~this section~~ subsections 2 and 3:

A. Facilities or portions of facilities that are used exclusively for the storage of #2 and other home heating oil and consist of an individual tank of 660 gallons or less capacity or an aggregate tank capacity of 1320 gallons or less; and

B. Facilities containing only liquefied petroleum gas or liquefied natural gas.

**Sec. 3. 38 MRSA §570-K, sub-§5** is enacted to read:

**5. Spill prevention and control.** An above-ground oil storage facility used in the marketing and distribution of oil to others must be operated in compliance with the federal requirements for the preparation and implementation of spill prevention control and countermeasure plans under 40 Code of Federal Regulations, 112 (2001). Failure to comply with those federal requirements constitutes a violation of this Title. If the department believes that a facility's plan does not satisfy those federal requirements, the department shall request an opinion from the United States Environmental Protection Agency as to the legal adequacy of the plan and any amendment necessary to bring the facility into compliance with those federal requirements. The department shall prepare educational and technical materials for use by facilities affected by this subsection. This subsection is repealed October 1, 2005.

**Sec. 4. Report.** The Commissioner of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2005 on all activities undertaken by the Department of Environmental Protection under the provisions of the Maine Revised Statutes, Title 38, section 570-K, subsection 5. That report must include the number of facilities inspected under that subsection; the number of spill prevention and control and countermeasure plans reviewed by the department under that subsection; the number, nature and result of any written communications submitted to the United States Environmental Protection Agency pursuant to that subsection; the number and result of all enforcement actions taken by the department for violations of that subsection; and an overview of the educational and technical assistance efforts undertaken by the department under that subsection. That report must also include a qualitative assessment of the department's effectiveness in implementing that subsection, including an assessment by the regulated community of the department's performance under that subsection.

**Sec. 5. Authority to report out legislation.** The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the First Regular Session of the 122nd Legislature on any matter pertaining to the State's enforcement of federal standards pertaining to the preparation and implementation of spill prevention control and countermeasure plans under the Maine Revised Statutes, Title 38, section 570-K, subsection 5.

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF  
Remediation and Waste Management**

Initiative: Allocates funds to cover additional personal services costs for positions funded by the Ground Water Oil Clean-up Fund.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
Personal Services	\$0	\$259,303

**Remediation and Waste Management**

Initiative: Allocates funds for the costs of contracting for consulting services needed to audit for compliance with requirements for the preparation and maintenance of aboveground oil storage facilities.

<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>
All Other	\$0	\$12,500

**ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF  
DEPARTMENT TOTALS**

	<b>2001-02</b>	<b>2002-03</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$271,803</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$271,803</b>
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See title page for effective date.

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**CHAPTER 606**

**H.P. 1427 - L.D. 1865**

**An Act to Allow the Department of Administrative and Financial Services, Bureau of General Services to Make Direct Selection of Architects, Engineers and Other Professionals Whose Services Do Not Exceed \$25,000 in Value**

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

**Sec. 1. 5 MRSA §1742, sub-§6,** as repealed and replaced by PL 1979, c. 223, is amended to read:

**6. Approve selection of architects and engineers and other professionals.** To approve the selection of architects and engineers registered in Maine and other professionals in the planning, design and monitoring of construction of public improvements consistent with the policy of this State that proposals for professional, architectural and engineering services for public improvements be publicly announced, and that contracts for ~~architectural and engineering~~ those services be negotiated by the contracting authority on the basis of evaluation of professional competency and qualifications required

for the type of services contemplated at fair and reasonable prices.

The bureau shall adopt procedures for the procurement of any professional, architectural and engineering services for public improvements as defined in section 1741. The procedures ~~shall~~ must be adopted pursuant to Title 5, chapter 375 and be deemed a rule.

The procedure ~~shall~~ must contain a provision that, prior to initiating the process of selecting an architect or engineer or other professional for any project, the contracting authority shall advertise in a daily newspaper that serves the area in which the project is likely to be located. The advertisement ~~shall~~ must state, at a minimum, that the selection is to take place and describe the procedures ~~which~~ that an engineer or architect or other professional may use to be considered as a candidate in the selection process.

~~The director of the bureau shall maintain a list of engineers and architects who have expressed an interest in providing service to the State or school administrative units.~~

Notwithstanding this subsection, the bureau may select a person or persons to perform professional, architectural or engineering services from the list described in this subsection without advertising or competitive selection if the cost of the services does not exceed \$25,000. The bureau shall solicit names for placement on a list by placing a general advertisement for professional, architectural or engineering services in newspapers that taken together have general circulation throughout the State. The bureau may substitute advertisement in professional journals or other publications that it finds equally effective in reaching the intended audience. The bureau may require persons responding to the advertisement to complete a qualifying questionnaire designed to address experience and expertise in performing the type of work advertised. The bureau shall prepare a list of respondents that it determines qualified and update the list at least every 2 years.

If the bureau determines that a person is not qualified for placement on the list of providers of professional, architectural or engineering services, the person may appeal that decision in writing to the Commissioner of Administrative and Financial Services within 15 days of the bureau's decision. The commissioner shall complete the appeal process and issue a decision within 15 days of the filing of the appeal. The decision of the commissioner is final.

See title page for effective date.

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