

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**  
**July 29, 2005**

**SECOND REGULAR SESSION**  
**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 23, 2006**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2006**

shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified and report the steps taken to the State Controller. From time to time the State Controller shall examine the policies and procedures implemented to ensure that the relevant policies and procedures are functioning appropriately.

See title page for effective date.

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**CHAPTER 491**

**S.P. 685 - L.D. 1768**

**An Act To Prevent Motor Fuel Spills from Aboveground Storage Tanks That Have Underground Piping**

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

**Sec. 1. 38 MRSA §563**, as amended by PL 2001, c. 231, §17 and c. 626, §§12 and 13, is further amended to read:

**§563. Registration and inspection of underground oil storage tanks and piping**

**1. Prohibition on unregistered tanks.** The following prohibition on unregistered tanks applies.

A. A person may not install, or cause to be installed, a new or replacement underground oil storage facility without first having registered the facility with the commissioner in accordance with the requirements of subsection 2, and having paid the registration fee in accordance with the requirements of subsection 4, at least 10 business days prior to installation. If compliance with this time requirement is impossible due to an emergency situation, the owner or operator of the facility at which the new or replacement facility is to be installed shall inform the commissioner as soon as the emergency becomes known.

The owner or operator shall make available a copy of the facility's registration at that facility for inspection by the commissioner and authorized municipal officials.

B. No person may operate, maintain or store oil in an underground oil storage facility after May 1, 1986, unless each underground oil storage tank at that facility is registered with the commissioner.

**2. Information required for registration.** The owner or operator of an underground oil storage facility shall provide the commissioner with the

following information on a form in triplicate to be developed and provided by the commissioner; one copy to be submitted to the commissioner, one copy to be promptly submitted upon completion to the municipality and one copy to be retained by the owner or operator:

A. The name, address and telephone number of the owner of the underground oil storage tank to be registered;

B. The name, address and telephone number of the person having responsibility for the operation of the tank to be registered;

C. The location of the facility ~~as necessary to determine if the facility meets the siting restrictions under section 563-C;~~

E. The size of the tank to be registered;

F. The type of tank or tanks and piping at the facility and the type of product stored or contained in the tank or tanks and piping;

G. For new, replacement or retrofitted facilities, the name of the installer, the expected date of installation or retrofit, the nature of any emergency pursuant to subsection 1, paragraph A, if applicable, and a description or plan showing the layout of the facility or tank, including the form of secondary containment, other forms of leak detection or equipment to be installed pursuant to section 564, subsection 1, paragraph A and, when applicable, the method of retrofitting leak detection pursuant to section 564, subsection 1 or 1-A;

H. For existing facilities and tanks, the best estimate of the age and type of tank or tanks and underground piping at the facility; and

I. ~~Expiration~~ For underground oil storage tanks, the expiration date of tank manufacturer's warranty.

**3. Amended registration required.** The owner or operator of an underground oil storage facility shall file an amended registration form with the commissioner immediately upon any change in the information required pursuant to subsection 2, including any modifications to the facility or a change of ownership. The board may establish, by rule, a late registration period not to exceed 10 business days in duration. A fee may not be charged for filing an amended registration.

**4. Registration fees.** The owner or operator of an underground oil storage facility shall pay an annual fee to the department of \$35 for each tank located at the facility, except that single family homeowners are

not required to pay a fee for a tank at their personal residence. Annual payments must be paid on or before January 1st of each calendar year.

**5. Penalty for failure to submit amended registration.** Any person who has not submitted an amended registration form in accordance with subsection 3 shall pay a late fee of \$100. This does not preclude the commissioner from seeking civil penalties from any person who fails to register a facility or tank.

**6. Providing notice.** Prior to the sale or transfer of any real estate where an underground oil storage facility is located, the owner of the real estate shall file a written notice with the purchaser or transferee. The notice ~~shall~~ must disclose the existence of the underground oil storage facility, its registration number or numbers, the real estate where the facility is located, whether or not the facility has been abandoned in place pursuant to section 566-A and that the facility is subject to regulation, including registration requirements, by the department under this subchapter.

**7. Supplier notification requirement.** Any person who sells a tank intended to be used as an underground oil storage tank shall notify the purchaser in writing of the purchaser's obligations under this section.

**8. Certification of proper installation.** Owners of new and replacement facilities shall ensure that the installer provides certification to the commissioner, within 30 days of completion of installation, that the materials and methods used comply with the applicable installation standards of this subchapter.

**9. Annual compliance inspection.** The owner of an underground oil storage facility is responsible for ensuring that each underground oil storage tank and associated piping at the facility are inspected annually for compliance with the requirements of this subchapter and any rules adopted under this subchapter and the requirements for gasoline vapor control in rules adopted under section 585-A. The owner shall correct or arrange for correction of any deficiencies detected during the inspection as necessary to bring the facility into compliance with these requirements.

A. The owner of an underground oil storage facility shall submit annual inspection results to the department on or before July 1, 2003 and on or before July 1st annually thereafter. The results must be recorded on a form provided by the department and must include a certification statement, signed by an underground oil storage tank inspector or underground oil storage tank installer certified by the Board of Underground Oil Tank Installers under Title 32, chapter 104-A that each tank and associated piping have been

inspected and any deficiencies discovered during the inspection have been corrected.

B. In addition to other enforcement actions allowed under state law, the commissioner may issue an administrative order after providing a notice of violation for failure to comply with the requirement of this subsection and after providing a reasonable opportunity to correct the violation. The administrative order may include, but is not limited to, a requirement that the owner or operator of an underground oil storage facility cease deliveries of oil to, and operation of, the underground oil storage tank and associated piping that are the subject of the violation until the violation has been corrected.

C. Service of the commissioner's administrative order under paragraph B must be made by hand delivery by an authorized representative of the department or by certified mailing, return receipt requested.

D. The person to whom the administrative order under paragraph B is directed shall comply immediately or within the time period specified in the order. That person may appeal the order to the board by filing a written petition within 5 working days after receipt of the order. Within 15 working days after receipt of the petition, the board shall hold a hearing on the matter. All witnesses at the hearing must be sworn. Within 7 working days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the administrative order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter ~~VII~~ 7.

**10. Aboveground oil storage tanks with underground piping.** An owner of an aboveground oil storage tank with underground piping is subject to the requirements of this subsection.

A. Effective January 1, 2007, a person may not store motor fuel in an aboveground oil storage facility that has underground piping without first having registered the facility with the commissioner in the same manner as is required of underground oil storage facilities under subsections 2 to 5.

B. Prior to the sale or transfer of an aboveground oil storage tank that has underground piping, the owner shall notify the purchaser or transferee in writing of the existence of the underground piping and the requirement that the tank be registered with the commissioner if the tank will be used to store motor fuel.

C. The owner of an aboveground oil storage tank used to store motor fuel shall ensure that, within 30 days after completion of installation of underground piping associated with the tank, the installer certifies in writing to the commissioner that the materials and methods used comply with the applicable installation standards of this subchapter.

D. The owner of an aboveground oil storage tank used to store motor fuel shall ensure that underground piping associated with the tank is inspected annually for compliance with the requirements of this subchapter and the requirements for gasoline vapor control in rules adopted under section 585-A. The owner shall submit annual inspection results to the department on or before July 1, 2007 and on or before July 1st annually thereafter. The results must be recorded on a form provided by the department and must include a certification statement, signed by an underground storage tank inspector or an underground oil storage tank installer certified by the Board of Underground Oil Tank Installers under Title 32, chapter 104-A that the piping has been inspected and any deficiencies discovered during the inspection have been corrected. The requirements of this paragraph may be enforced in the same manner as is provided for underground oil storage facilities under subsection 9.

This subsection does not apply to tanks or piping at an oil terminal facility as defined in section 542, subsection 7. Until July 1, 2009, this subsection does not apply to tanks or piping at a facility used to store diesel fuel.

**Sec. 2. 38 MRSA §570-K, sub-§3,** as amended by PL 1999, c. 334, §8, is further amended to read:

**3. Underground piping installation.** All new and replacement underground piping, whether replacement or new, installed on or after June 24, 1991 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, except that, in the case of fleet fueling or retail facilities, the commissioner may approve leak detection methods other than those required under board rules when warranted by the nature and design of the facility and piping. Effective January 1, 2011, this subsection applies to underground piping installed before June 24, 1991 if the piping is associated with an aboveground tank used to store motor fuel.

See title page for effective date.

## CHAPTER 492

S.P. 651 - L.D. 1697

### An Act Regarding the Appointment of Harbor Masters

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

**Sec. 1. 12 MRSA §10402, sub-§1,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**1. Watercraft laws.** All harbor masters, except those harbor masters whose authority is restricted as described in section 13072 or Title 38, section 1, have the same powers and duties as game wardens to enforce chapter 935 and any other provision of this Part regulating watercraft.

**Sec. 2. 12 MRSA §13072, sub-§1,** as affected by PL 2003, c. 614, §9 and amended by c. 627, §4, is further amended to read:

**1. Appointment; compensation.** The municipal officers of a town bordering an that borders or contains inland waterway waters but does not border or contain territorial waters may appoint a harbor master for a term of not less than one year and may establish the harbor master's compensation. Except as provided in subsection 2-A, the harbor master is subject to all the duties and liabilities of that office as prescribed by state law, municipal ordinances and rules promulgated by the municipality. The municipal officers may remove the harbor master from office for cause, declared in writing, after due notice to the harbor master and a hearing, if requested.

~~The municipal officers may prohibit a harbor master from making an arrest or carrying a weapon. A harbor master who is not prohibited from making arrests may arrest and deliver to the law enforcement authorities on shore any person committing an assault upon the harbor master or another person acting under the harbor master's authority.~~

For purposes of this subsection, "territorial waters" has the same meaning as provided in section 6001, subsection 48-B.

**Sec. 3. 12 MRSA §13072, sub-§§4 and 5** are enacted to read:

**4. Power to arrest for assault.** The municipal officers may prohibit a harbor master from making an arrest or carrying a weapon. A harbor master who is not prohibited from making arrests may arrest and deliver to the law enforcement authorities on shore any person committing an assault upon the harbor master or another person acting under the harbor