



SENATE BILL No. 582

June 13, 1995, Introduced by Senator BENNETT and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend sections 21503, 21507, 21512, and 21514 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," section 21512 as amended by Act No. 12 of the Public Acts of 1995, being sections 324.21503, 324.21507, 324.21512, and 324.21514 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 21503, 21507, 21512, and 21514 of Act
2 No. 451 of the Public Acts of 1994, section 21512 as amended by
3 Act No. 12 of the Public Acts of 1995, being sections 324.21503,
4 324.21507, 324.21512, and 324.21514 of the Michigan Compiled
5 Laws, are amended to read as follows:

6 Sec. 21503. (1) "Payment voucher" means a form prepared by
7 the department that specifies payment authorization by the
8 department to the department of treasury.

1 (2) "Petroleum" means crude oil, crude oil fractions, and
2 refined petroleum fractions including gasoline, kerosene, heating
3 oils, and diesel fuels.

4 (3) "Petroleum underground storage tank system" means an
5 underground storage tank system used for the storage of
6 petroleum.

7 (4) "Refined petroleum" means aviation gasoline, middle dis-
8 tillates, jet fuel, kerosene, gasoline, residual oils, and any
9 oxygenates that have been blended with any of these.

10 (5) "Regulated financial institution" means a state or
11 nationally chartered bank, savings and loan association or sav-
12 ings bank, credit union, or other state or federally chartered
13 lending institution or a regulated affiliate or regulated subsid-
14 iary of any of these entities.

15 (6) "Regulatory fee" means the environmental protection
16 regulatory fee imposed under section 21508.

17 (7) "Release" means any spilling, leaking, emitting, dis-
18 charging, escaping, or leaching from a petroleum underground
19 storage tank system into groundwater, surface water, or subsur-
20 face soils.

21 (8) "SMALL BUSINESS OPERATOR" MEANS A BUSINESS THAT IS INDE-
22 PENDENTLY OWNED AND OPERATED AND THAT IS NOT DOMINANT IN ITS
23 FIELD AS DEFINED IN 13 C.F.R. 121 AND MEETS BOTH OF THE FOLLOWING
24 REQUIREMENTS:

25 (A) IS OWNED OR OPERATED BY A PERSON THAT EMPLOYS 100 OR
26 FEWER INDIVIDUALS.

1 (B) IS A SMALL BUSINESS CONCERN AS DEFINED IN THE SMALL
2 BUSINESS ACT, PUBLIC LAW 85-536, 72 STAT. 384.

3 (9) ~~-(8)-~~ "Underground storage tank system" means an exist-
4 ing tank or combination of tanks, including underground pipes
5 connected to the tank or tanks, which is or was used to contain
6 an accumulation of regulated substances, and is not currently
7 being used for any other purpose, and the volume of which,
8 including the volume of the underground pipes connected to the
9 tank or tanks, is 10% or more beneath the surface of the ground.
10 An underground storage tank system includes an underground stor-
11 age tank that is properly closed in place pursuant to part 211
12 and rules promulgated under that part. An underground storage
13 tank system does not include any of the following:

14 (a) A farm or residential tank of 1,100 gallons or less
15 capacity used for storing motor fuel for noncommercial purposes.

16 (b) A tank used for storing heating oil for consumptive use
17 on the premises where the tank is located.

18 (c) A septic tank.

19 (d) A pipeline facility, including gathering lines regulated
20 under either of the following:

21 (i) The natural gas pipeline safety act of 1968, Public Law
22 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
23 1687.

24 (ii) Sections 201 to 215, 217, and 219 of the hazardous
25 liquid pipeline safety act of 1979, title II of the pipeline
26 safety act of 1979, Public Law 96-129, 49 U.S.C. Appx 2001 to
27 2015.

- 1 (e) A surface impoundment, pit, pond, or lagoon.
- 2 (f) A storm water or wastewater collection system.
- 3 (g) A flow-through process tank.
- 4 (h) A liquid trap or associated gathering lines directly
5 related to oil or gas production and gathering operations.
- 6 (i) A storage tank situated in an underground area such as a
7 basement, cellar, mineworking, drift, shaft, or tunnel if the
8 storage tank is situated upon or above the surface of the floor.
- 9 (j) Any pipes connected to a tank described in subdivisions
10 (a) to (i).
- 11 (k) An underground storage tank system holding hazardous
12 wastes listed or identified under subtitle C of the solid waste
13 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
14 6939e, or a mixture of such hazardous waste and other regulated
15 substances.
- 16 (l) A wastewater treatment tank system that is part of a
17 wastewater treatment facility regulated under section 307(b) of
18 title III or section 402 of title IV of the federal water pollu-
19 tion control act, 33 U.S.C. 1317 and 1342.
- 20 (m) Equipment or machinery that contains regulated sub-
21 stances for operational purposes such as hydraulic lift tanks and
22 electrical equipment tanks.
- 23 (n) An underground storage tank system with a capacity of
24 110 gallons or less.
- 25 (o) An underground storage tank system that contains a de
26 minimis concentration of regulated substances.

1 (p) An emergency spill or overflow containment underground
2 storage tank system that is expeditiously emptied after use.

3 (q) A wastewater treatment tank system.

4 (r) An underground storage tank system containing radioac-
5 tive material that is regulated under the atomic energy act of
6 1954, chapter 1073, 68 Stat. 919.

7 (s) An underground storage tank system that is part of an
8 emergency generator system at nuclear power generation facilities
9 regulated by the nuclear regulatory commission under
10 10 C.F.R. part 50, appendix A to part 50 of title 10 of the code
11 of federal regulations.

12 (t) Airport hydrant fuel distribution systems.

13 (u) Underground storage tank systems with field-constructed
14 tanks.

15 (10) ~~-(9)-~~ "Work invoice" means an original billing accept-
16 able to the administrator and signed by the owner or operator and
17 a consultant that includes all of the following:

18 (a) The name, address, and federal tax identification number
19 of each contractor who performed work.

20 (b) The name and social security number of each employee who
21 performed work.

22 (c) A specific itemized list of the work performed by each
23 contractor and an itemized list of the cost of each of these
24 items.

25 (d) A statement that the consultant employed a documented
26 sealed competitive bidding process for any contract award
27 exceeding \$5,000.00.

1 (e) If the consultant did not accept the lowest responsive
2 bid received, a specific reason why the lowest responsive bid was
3 not accepted.

4 (f) Upon request of the administrator, a list of all bids
5 received.

6 (g) Proof of payment of the co-pay amount as required under
7 section 21514.

8 (h) Authorization by the owner or operator as to whether the
9 state treasurer should make payment to the owner or operator or
10 to the consultant.

11 Sec. 21507. (1) The emergency response AND SMALL BUSINESS
12 ASSISTANCE fund is created WITHIN THE STATE TREASURY.

13 (2) The state treasurer shall direct the investment of the
14 emergency response AND SMALL BUSINESS ASSISTANCE fund. Interest
15 and earnings of the emergency response AND SMALL BUSINESS
16 ASSISTANCE fund shall remain in the emergency response AND SMALL
17 BUSINESS ASSISTANCE fund.

18 (3) Money in the emergency response AND SMALL BUSINESS
19 ASSISTANCE fund at the close of the fiscal year shall remain in
20 the emergency response AND SMALL BUSINESS ASSISTANCE fund and
21 shall not lapse to the general fund.

22 ~~(4) Money in the emergency response fund shall not exceed~~
23 ~~\$1,000,000.00.~~

24 (4) ~~(5)~~ Money in the emergency response AND SMALL BUSINESS
25 ASSISTANCE fund shall be expended by the department ~~to~~ FOR BOTH
26 OF THE FOLLOWING:

1 (A) TO undertake corrective actions to address releases from
2 petroleum underground storage tank systems pursuant to part 213.

3 (B) TO ASSIST SMALL BUSINESS OPERATORS IN MEETING THEIR COR-
4 RECTIVE ACTIONS OBLIGATION UNDER PART 213.

5 ~~(6) Not more than \$1,000,000.00 shall be expended from the~~
6 ~~emergency response fund in any year.~~

7 (5) ~~(7)~~ If money in the emergency response AND SMALL BUSI-
8 NESS ASSISTANCE fund is expended under subsection ~~(5)~~ (4)(A),
9 the person or persons responsible for the corrective action shall
10 be liable to the state for all such expenditures.

11 Sec. 21512. (1) Except as provided in ~~subsection (4)~~
12 SUBSECTIONS (2) AND (3), the administrator shall approve expendi-
13 tures for corrective action and indemnification ~~,~~ on behalf of
14 an owner or operator ~~,~~ of not more than ~~a total of the follow-~~
15 ~~ing amounts per claim submitted~~ \$50,000.00 if the owner or oper-
16 ator has met the requirements of this part and the rules promul-
17 gated under this part. ~~→~~

18 ~~(a) For underground storage tank systems that, on~~
19 ~~October 26, 1993, have been upgraded pursuant to part 211 and the~~
20 ~~rules promulgated under that part:~~

21 ~~(i) Claims submitted through December 31, 1995 \$1,000,000.00~~

22 ~~(ii) Claims submitted from January 1, 1996 to~~

23 ~~December 31, 1996 \$ 800,000.00~~

24 ~~(iii) Claims submitted from January 1, 1997 to~~

25 ~~December 31, 1997 \$ 600,000.00~~

26 ~~(iv) Claims submitted from January 1, 1998 to~~

27 ~~December 22, 1998 \$ 400,000.00~~

~~1 (b) For underground storage tank systems that, on~~
~~2 October 26, 1993, have not been upgraded pursuant to part 211 and~~
~~3 the rules promulgated under that part:~~

~~4 (i) Claims submitted through December 31, 1996 \$1,000,000.00~~

~~5 (ii) Claims submitted from January 1, 1997~~

~~6 through December 31, 1997 \$ 800,000.00~~

~~7 (iii) Claims submitted from January 1, 1998~~

~~8 through December 22, 1998 \$ 600,000.00~~

~~9 (2) Beginning December 23, 1998, the fund will not be avail-~~
~~10 able to provide any portion of an owner's or operator's financial~~
~~11 responsibility requirements.~~

~~12 (3) The approved expenditure under subsection (1) shall be~~
~~13 reduced by the amount of the interest subsidy paid to an owner or~~
~~14 operator who has defaulted on a loan subsidized through the~~
~~15 interest subsidy program established in this section.~~

~~16 (4) If, upon review of the study conducted under section~~
~~17 21547, the director, in consultation with the insurance commis-~~
~~18 sioner, determines that insurance is not available to meet the~~
~~19 owner's and operator's portion of financial responsibility~~
~~20 requirements, or that the insurance that is available is not~~
~~21 available for a reasonable cost, then the director may delay~~
~~22 implementation of the schedule provided in subsection (1). Upon~~
~~23 making such a determination, the department shall publish notice~~
~~24 of the revised schedule. However, the revised implementation~~
~~25 schedule shall not require the fund to provide any portion of an~~
~~26 owner's or operator's financial responsibility requirements after~~
~~27 December 22, 1998.~~

1 Sec. 21514. (1) Except as provided in subsection (2) and
2 section 21511, an owner or operator who is eligible under
3 section 21510 or 21511 to receive money from the fund in the
4 event of a release is responsible for the payment of 10% of each
5 work invoice submitted ~~up to a maximum of \$15,000.00 of~~ FOR
6 corrective action or indemnification costs associated with the
7 release. This amount or the amount provided for in subsection
8 (2) may be referred to as the co-pay amount. An owner or opera-
9 tor who has paid \$10,000.00 of corrective action costs on
10 October 26, 1993 for a release in which a claim has been submit-
11 ted is exempt from any additional co-pay amounts for that
12 release.

13 (2) An owner or operator who is eligible to receive money
14 from the fund in the event of a second release at a location is
15 responsible for the payment of 30% of each work invoice ~~up to a~~
16 ~~maximum of \$45,000.00~~ of corrective action or indemnification
17 costs associated with the release.

18 (3) An owner or operator is not eligible to receive money
19 from the fund for more than 2 releases at a location.

20 (4) Upon transfer or sale of any legal, equitable, or pos-
21 sessory interest in property, which at the time of transfer is
22 otherwise in compliance with this part and the rules promulgated
23 under this part, or upon which an approved claim and the corre-
24 sponding corrective action is in progress, any co-pay amount
25 paid, by written agreement, may be transferred.