

# HOUSE BILL No. 4583

May 4, 2017, Introduced by Reps. Whiteford, Victory, Howell, VanSingel, VerHeulen and Cole and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 21506a and 21510d (MCL 324.21506a and  
324.21510d), section 21506a as amended by 2016 PA 467 and section  
21510d as added by 2016 PA 380, and by adding section 21519a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21506a. (1) The refined petroleum fund is created within  
2       the state treasury.

3       (2) The state treasurer may receive money or other assets from  
4       any source for deposit into the refined petroleum fund. The state  
5       treasurer shall direct the investment of the refined petroleum  
6       fund. The state treasurer shall credit to the refined petroleum

1 fund interest and earnings from refined petroleum fund investments.

2 (3) Money in the refined petroleum fund at the close of the  
3 fiscal year ~~shall remain~~ **REMAINS** in the refined petroleum fund and  
4 ~~shall~~ **DOES** not lapse to the general fund.

5 (4) Money from the refined petroleum fund shall be expended,  
6 upon appropriation, only for 1 or more of the following purposes:

7 (a) Corrective actions performed by the department pursuant to  
8 section 21320.

9 **(B) THE LEGACY UNDERGROUND STORAGE TANK CLEANUP PROGRAM**  
10 **CREATED IN SECTION 21519A.**

11 **(C)** ~~(b)~~ The reasonable costs of the department in  
12 administering the refined petroleum fund and implementing part 213.

13 **(D)** ~~(c)~~ Not more than \$5,000,000.00 annually for petroleum  
14 product inspection programs under both of the following:

15 (i) The weights and measures act, 1964 PA 283, MCL 290.601 to  
16 290.635.

17 (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to  
18 290.650d.

19 **(E)** ~~(d)~~ Not more than \$3,000,000.00 annually for the bureau of  
20 fire services and office of the state fire marshal, storage tank  
21 division, in the department of licensing and regulatory affairs.

22 ~~— (e) Other purposes as determined by the legislature.~~

23 Sec. 21510d. If an owner or operator intends to rely on the  
24 fund to meet financial responsibility requirements, the owner or  
25 operator shall submit to the authority a request for a  
26 determination that the owner or operator would be eligible for  
27 funding under this part in the event of a release from a refined

1 petroleum underground storage tank system. Upon receipt of a  
2 request under this subsection, the authority shall make a  
3 determination and provide notice of that determination, in writing,  
4 to the owner or operator. The notice may contain conditions for  
5 maintenance of that eligibility. A determination under this section  
6 is based upon a demonstration of all of the following:

7 (a) The owner or operator is not ineligible for funding under  
8 section 21510(4) and (5).

9 (b) The refined petroleum underground storage tank or tanks  
10 are presently in compliance with the registration and fee  
11 requirements of part 211.

12 (c) The owner or operator is not the United States government.

13 (d) The owner or operator has financial responsibility for the  
14 deductible amount. **IN ORDER TO DEMONSTRATE THAT THE OWNER OR  
15 OPERATOR HAS FINANCIAL RESPONSIBILITY FOR THE DEDUCTIBLE AMOUNT  
16 UNDER THIS SECTION AND SECTION 21510(1)(F), THE OWNER OR OPERATOR  
17 MAY RELY UPON ANY FINANCIAL ASSURANCE MECHANISM LISTED IN 40 CFR  
18 280.95 TO 280.103 OR EITHER OF THE FOLLOWING:**

19 **(i) A FINANCIAL TEST OF SELF-INSURANCE. TO PASS THE FINANCIAL  
20 TEST OF SELF-INSURANCE, THE OWNER OR OPERATOR MUST SUBMIT, ON A  
21 FORM DEVELOPED BY THE AUTHORITY, FINANCIAL INFORMATION CERTIFIED AS  
22 ACCURATE BY THE CHIEF FINANCIAL OFFICER THAT DEMONSTRATES A  
23 TANGIBLE NET WORTH OF AT LEAST 3 TIMES THE DEDUCTIBLE AMOUNT  
24 REQUIRED UNDER THIS PART.**

25 **(ii) A DEPOSIT ACCOUNT IN THE AMOUNT OF THE DEDUCTIBLE AMOUNT  
26 REQUIRED UNDER THIS PART IN A FINANCIAL INSTITUTION AS DEFINED IN  
27 SECTION 1202 OF THE BANKING CODE OF 1999, 1999 PA 276, MCL**

1 487.11202, IF ACCESS TO THE DEPOSIT ACCOUNT IS RESTRICTED BY A  
2 DEPOSIT ACCOUNT CONTROL AGREEMENT OR SIMILAR RESTRICTION AS  
3 APPROVED BY THE AUTHORITY THAT REQUIRES THE APPROVAL OF THE  
4 ADMINISTRATOR FOR A WITHDRAWAL FROM THE DEPOSIT ACCOUNT.

5 SEC. 21519A. (1) THE DEPARTMENT SHALL ESTABLISH AND THE  
6 AUTHORITY SHALL ADMINISTER A LEGACY UNDERGROUND STORAGE TANK  
7 CLEANUP PROGRAM AS PROVIDED IN THIS SECTION TO REIMBURSE ELIGIBLE  
8 PERSONS FOR COSTS OF CORRECTIVE ACTIONS FOR CERTAIN HISTORIC  
9 RELEASES FROM REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS.  
10 AN ELIGIBLE PERSON MAY BE REIMBURSED FOR CORRECTIVE ACTION COSTS  
11 INCURRED IF THE ELIGIBLE PERSON DEMONSTRATES ALL OF THE FOLLOWING:

12 (A) THE RELEASE FROM WHICH THE CORRECTIVE ACTION OR  
13 INDEMNIFICATION AROSE WAS DISCOVERED AND REPORTED PRIOR TO DECEMBER  
14 30, 2014.

15 (B) THE RELEASE UPON WHICH THE REQUEST FOR REIMBURSEMENT IS  
16 BASED HAS NOT BEEN CLOSED PURSUANT TO PART 213.

17 (C) ANY REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS  
18 THAT ARE OPERATING AT THE LOCATION FROM WHICH THE RELEASE OCCURRED  
19 ARE CURRENTLY IN COMPLIANCE WITH THE REGISTRATION REQUIREMENTS OF  
20 PART 211.

21 (D) THE REQUEST FOR REIMBURSEMENT DOES NOT INCLUDE  
22 REIMBURSEMENT FOR MONEY THAT WAS REIMBURSED FROM ANY OTHER SOURCE,  
23 INCLUDING INSURANCE POLICIES.

24 (E) THE REQUEST FOR REIMBURSEMENT IS FOR CORRECTIVE ACTION  
25 PERFORMED ON OR AFTER DECEMBER 30, 2014.

26 (2) AN ELIGIBLE PERSON THAT WANTS TO BE REIMBURSED UNDER THE  
27 LEGACY UNDERGROUND STORAGE TANK PROGRAM ESTABLISHED UNDER THIS

1 SECTION SHALL SUBMIT TO THE AUTHORITY A REQUEST FOR REIMBURSEMENT  
2 ON A FORM PROVIDED BY THE AUTHORITY CONTAINING THE DOCUMENTATION  
3 REQUIRED BY THE AUTHORITY.

4 (3) THE AUTHORITY SHALL APPROVE A REQUEST FOR REIMBURSEMENT  
5 UNDER THIS SECTION ONLY AS FOLLOWS:

6 (A) THE AMOUNT APPROVED FOR REIMBURSEMENT MUST BE 50% OF THE  
7 COST INCURRED FOR CORRECTIVE ACTION, BUT NOT MORE THAN 50% OF THE  
8 AMOUNT SPECIFIC FOR PARTICULAR CORRECTIVE ACTION ACTIVITIES  
9 ESTABLISHED IN THE SCHEDULE OF COSTS APPROVED BY THE AUTHORITY.

10 (B) THE TOTAL AMOUNT APPROVED FOR REIMBURSEMENT MUST NOT  
11 EXCEED \$50,000.00 FOR A RELEASE FROM A REFINED PETROLEUM  
12 UNDERGROUND STORAGE TANK SYSTEM.

13 (4) AS USED IN THIS SECTION, "ELIGIBLE PERSON" MEANS THE OWNER  
14 OR OPERATOR OF A REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEM  
15 THAT IS LIABLE UNDER SECTION 21323A.

16 Enacting section 1. This amendatory act takes effect 90 days  
17 after the date it is enacted into law.