



SENATE BILL No. 680

June 3, 1993, Introduced by Senators HOFFMAN and EHLERS
and referred to the Committee on Natural Resources and
Environmental Affairs.

A bill to amend sections 1, 2, 3, 3a, and 8 of Act No. 423
of the Public Acts of 1984, entitled as amended
"Underground storage tank regulatory act,"
as added by Act No. 151 of the Public Acts of 1989, being sec-
tions 299.701, 299.702, 299.703, 299.703a, and 299.708 of the
Michigan Compiled Laws; and to add section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 2, 3, 3a, and 8 of Act No. 423 of
2 the Public Acts of 1984, as added by Act No. 151 of the Public
3 Acts of 1989, being sections 299.701, 299.702, 299.703, 299.703a,
4 and 299.708 of the Michigan Compiled Laws, are amended and sec-
5 tion 7a is added to read as follows:

6 Sec. 1. As used in this act:

1 (a) "Board" means the state fire safety board created in
2 section 3b of the fire prevention act, Act No. 207 of the Public
3 Acts of 1941, being section 29.3b of the Michigan Compiled Laws.

4 (b) "Department" means the department of state police, fire
5 marshal division.

6 (c) "Director" means the director of the department of state
7 police.

8 (d) "Fund" means the underground storage tank regulatory
9 enforcement fund created in section 3a.

10 (e) "Local unit of government" means a city, village, town-
11 ship, county, or governmental authority, or any combination of
12 cities, villages, townships, counties, or governmental
13 authorities.

14 (f) "Natural gas" means natural gas, synthetic gas, and man-
15 ufactured gas.

16 (g) "Operator" means a person who is presently, or was at
17 the time of a release, in control of, or responsible for, the
18 operation of an underground storage tank system.

19 (h) "Owner" means a person who holds, or at the time of a
20 release held, a legal, equitable, or possessory interest of any
21 kind in an underground storage tank system, or in the property on
22 which an underground storage tank system is located, including,
23 but not limited to, a trust, vendor, vendee, lessor, or lessee.
24 However, owner does not include a person or a regulated financial
25 institution who, without participating in the management of an
26 underground storage tank system and who is not otherwise engaged
27 in petroleum production, refining, or marketing relating to the

1 underground storage tank system, is acting in a fiduciary
2 capacity or who holds indicia of ownership primarily to protect
3 the person's or the regulated financial institution's security
4 interest in the underground storage tank system or the property
5 on which it is located. This exclusion does not apply to a
6 grantor, beneficiary, remainderman, or other person who could
7 directly or indirectly benefit financially from the exclusion
8 other than by the receipt of payment for fees and expenses
9 related to the administration of a trust.

10 (i) "Person" means an individual; partnership; joint ven-
11 ture; trust; firm; joint stock company; corporation, including a
12 government corporation; association; local unit of government;
13 commission; the state; a political subdivision of a state; an
14 interstate body; the federal government; a political subdivision
15 of the federal government; and any other legal entity.

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

20 (k) "Regulated substance" means ~~either~~ ANY of the
21 following:

22 (i) A substance defined in section 101(14) of title I of the
23 comprehensive environmental response, compensation, and liability
24 act of 1980, Public Law 96-510, 42 U.S.C. 9601 but not including
25 a substance regulated as a hazardous waste under subtitle C of
26 the solid waste disposal act, title II of Public Law 89-272, 42
27 U.S.C. 6921 to 6931 and 6933 to 6939b.

1 (ii) Petroleum, including crude oil or any fraction of crude
2 oil that is liquid at standard conditions of temperature and
3 pressure (60 degrees Fahrenheit and 14.7 pounds per square inch
4 absolute). Petroleum includes but is not limited to mixtures of
5 petroleum with de minimis quantities of other regulated sub-
6 stances, and petroleum-based substances comprised of a complex
7 blend of hydrocarbons derived from crude oil through processes of
8 separation, conversion, upgrading, or finishing such as motor
9 fuels, jet fuels, distillate fuel oils, residual fuel oils,
10 lubricants, and petroleum solvents.

11 (iii) A SUBSTANCE LISTED IN SECTION 112 OF PART A OF TITLE I
12 OF THE CLEAN AIR ACT, CHAPTER 360, 84 STAT. 1685, 42 U.S.C. 7412.

13 (1) "Rule" means a rule promulgated pursuant to the adminis-
14 trative procedures act of 1969, Act No. 306 of the Public Acts of
15 1969, being sections 24.201 to 24.328 of the Michigan Compiled
16 Laws.

17 (m) "Underground storage tank system" means a tank or combi-
18 nation of tanks, including underground pipes connected to the
19 tank or tanks, which is, was, or may have been, used to contain
20 an accumulation of regulated substances, and the volume of which,
21 including the volume of the underground pipes connected to the
22 tank or tanks, is 10% or more beneath the surface of the ground.
23 An underground storage tank system does not include any of the
24 following:

25 (i) A farm or residential tank of 1,100 gallons or less
26 capacity used for storing motor fuel for noncommercial purposes.

1 (ii) A tank used for storing heating oil for consumptive use
2 on the premises where the tank is located.

3 (iii) A septic tank.

4 (iv) A pipeline facility, including gathering lines regu-
5 lated under either of the following:

6 (A) The natural gas pipeline safety act of 1968, Public Law
7 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
8 1687.

9 (B) Sections 201 to 215 and 217 of the hazardous liquid
10 pipeline safety act of 1979, title II of Public Law 96-129, 49
11 U.S.C. Appx 2001 to 2015.

12 (v) A surface impoundment, pit, pond, or lagoon.

13 (vi) A storm water or wastewater collection system.

14 (vii) A flow-through process tank.

15 (viii) A liquid trap or associated gathering lines directly
16 related to oil or gas production and gathering operations.

17 (ix) A storage tank situated in an underground area, such as
18 a basement, cellar, mineworking, drift, shaft, or tunnel if the
19 storage tank is situated upon or above the surface of the floor.

20 (x) Any pipes connected to a tank that is described in sub-
21 paragraphs (i) to (xvi).

22 (xi) An underground storage tank system holding hazardous
23 wastes listed or identified under subtitle C of the solid waste
24 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
25 6931 and 6933 to 6939b or a mixture of such hazardous waste and
26 other regulated substances.

1 (xii) A wastewater treatment tank system that is part of a
2 wastewater treatment facility regulated under section 307(b) of
3 title III or section 402 of title IV of the federal water pollu-
4 tion control act, 33 U.S.C. 1317 and 1342.

5 (xiii) Equipment or machinery that contains regulated sub-
6 stances for operational purposes such as hydraulic lift tanks and
7 electrical equipment tanks.

8 (xiv) An underground storage tank system with a capacity of
9 110 gallons or less.

10 (xv) An underground storage tank system that contains a de
11 minimis concentration of regulated substances.

12 (xvi) An emergency spill or overflow containment underground
13 storage tank system that is expeditiously emptied after use.

14 (xvii) BEGINNING JANUARY 1, 1997, AN UNDERGROUND STORAGE
15 TANK CLOSED PRIOR TO JANUARY 1, 1974 IN COMPLIANCE WITH THE FIRE
16 PREVENTION CODE, ACT NO. 207 OF THE PUBLIC ACTS OF 1941, BEING
17 SECTIONS 29.1 TO 29.33 OF THE MICHIGAN COMPILED LAWS, AND THE
18 RULES PROMULGATED UNDER THAT ACT.

19 Sec. 2. (1) A person who is the owner of an underground
20 storage tank system shall register and annually renew the regis-
21 tration on the underground storage tank system with the
22 department.

23 (2) A person who is the owner of an underground storage tank
24 system shall register the underground storage tank system with
25 the department prior to bringing the underground storage tank
26 system into use.

1 (3) The department shall accept the registration or renewal
2 of registration of an underground storage tank system under this
3 section only if the owner of the underground storage tank system
4 pays the registration fee specified in subsection (8).

5 (4) Except as otherwise provided in subsections (5) and (6),
6 a person who is the owner of an underground storage tank system
7 registered under subsection (1) or (2) shall notify the depart-
8 ment of any change in the information required under section 3
9 or of the removal of an underground storage tank system from
10 service.

11 (5) A person who is the owner of an underground storage tank
12 system, the contents of which are changed routinely, may indicate
13 all the materials which are stored in the underground storage
14 tank system on the registration form described in section 3. A
15 person providing the information described in this subsection is
16 not required to notify the department of changes in the contents
17 of the underground storage tank system unless the material to be
18 stored in the system differs from the information provided on the
19 registration form.

20 (6) Except as otherwise provided in section 3(2), a person
21 who is the owner of an underground storage tank system registered
22 under subsection (1) or (2) is not required to notify the depart-
23 ment of a test conducted on the tank system but shall furnish
24 this information upon request of the department.

25 (7) Upon the request of a local unit of government in which
26 an underground storage tank system is located, the department
27 shall forward a copy of registration or notification of change to

1 the local unit of government where the underground storage tank
2 system is located.

3 (8) Except as provided in section 3a(3), the owner of an
4 underground storage tank system shall, upon registration or
5 renewal of registration, pay a registration fee of \$100.00 for
6 each underground storage tank included in that underground stor-
7 age tank system. The department shall deposit all registration
8 fees it collects into the fund.

9 (9) The board may promulgate rules that require proof of
10 registration under this act to be attached to the underground
11 storage tank system or to the property where the underground
12 storage tank system is located.

13 (10) Except as otherwise provided in this subsection, an
14 underground storage tank system or an underground storage tank
15 that is part of the system that has been closed or removed pursu-
16 ant to rules promulgated under this act is exempt from the
17 requirements of this section. However, the owner of an under-
18 ground storage tank system or an underground storage tank that is
19 part of the system that has been closed or removed shall notify
20 the department of the closure or removal pursuant to rules
21 promulgated by the board. The owner of an underground storage
22 tank system shall continue to pay registration fees on under-
23 ground storage tanks that have been closed or removed until noti-
24 fication of the closure or removal is provided ON THE REQUIRED
25 FORM pursuant to these rules.

26 Sec. 3. (1) The registration required by section 2(1) and
27 (2) shall be provided either:

1 (a) On a form provided by the department and in compliance
2 with section 9002 of the solid waste disposal act, 42
3 U.S.C. 6991a.

4 (b) On a form approved by the department and in compliance
5 with section 9002 of the solid waste disposal act.

6 (2) If there is a suspected or confirmed release from an
7 underground storage tank system, the owner or operator of the
8 underground storage tank system shall notify the department
9 WITHIN 24 HOURS and if requested by the department shall file the
10 following supplementary information if known:

11 (a) The owner of the property where the underground storage
12 tank system is located.

13 (b) A history of the current and previous contents of the
14 underground storage tank system, including the generic chemical
15 name, chemical abstract service number, or trade name, whichever
16 is most descriptive of the contents, and including the date or
17 dates on which the contents were changed or removed.

18 (c) A history of the monitoring procedures and leak detec-
19 tion tests and methods employed with respect to the underground
20 storage tank system, and the resulting findings.

21 Sec. 3a. (1) The underground storage tank regulatory
22 enforcement fund is created in the state treasury. The fund may
23 receive money as provided in this act and as otherwise provided
24 by law. The state treasurer shall direct the investment of the
25 fund. Interest and earnings of the fund shall be credited to the
26 fund. Money in the fund at the close of the fiscal year shall
27 remain in the fund and shall not revert to the general fund.

1 (2) Money in the fund shall be used only by the department
2 to enforce this act and the rules promulgated under this act and
3 the rules promulgated under the fire prevention code, Act No. 207
4 of the Public Acts of 1941, being sections 29.1 to 29.33 of the
5 Michigan Compiled Laws, pertaining to the delivery and dispensing
6 operations of regulated substances.

7 (3) Notwithstanding section 2(8), if at the close of any
8 fiscal year the amount of money in the fund exceeds
9 \$8,000,000.00, the department shall not collect a registration
10 fee for the following year from existing underground storage tank
11 systems. After the registration fee has been suspended under
12 this subsection, it shall only be reinstated if, at the close of
13 any succeeding fiscal year, the amount of money in the fund is
14 less than ~~-\$2,000,000.00~~ \$4,000,000.00.

15 (4) The department of treasury shall, before November 1 of
16 each year, notify the department of the balance in the fund at
17 the close of the preceding fiscal year.

18 SEC. 7A. A PERSON WHO INSTALLS OR REMOVES UNDERGROUND STOR-
19 AGE TANK SYSTEMS SHALL MAINTAIN POLLUTION LIABILITY INSURANCE
20 WITH LIMITS OF NOT LESS THAN \$1,000,000.00 PER OCCURRENCE.

21 Sec. 8. (1) The department shall enforce this act and the
22 rules promulgated under this act.

23 (2) The department may delegate the authority to enforce
24 this act and the rules promulgated under this act to a local unit
25 of government that has sufficient employees who are certified by
26 the department under subsection (3) as underground storage tank
27 system inspectors. A local unit of government may apply for

1 delegation under this section by submitting a resolution of the
2 governing body of the local unit of government and an application
3 containing the information required by the department. The
4 department may revoke a delegation under this section for a vio-
5 lation of this act, the rules promulgated under this act, or a
6 contract entered between the department and the local unit of
7 government.

8 (3) The department may certify individuals who are qualified
9 to enforce this act and the rules promulgated under this act as
10 underground storage tank system inspectors. The department may
11 revoke an individual's certification under this section for vio-
12 lating this act or rules promulgated under this act.

13 (4) If the department elects to delegate enforcement author-
14 ity under subsection (2), the board shall promulgate rules that
15 do both of the following:

16 (a) Establish criteria for delegation under subsection (2).

17 (b) Establish qualifications for certification of individu-
18 als as underground storage tank system inspectors under subsec-
19 tion (3).

20 (5) The department may contract with a local unit of govern-
21 ment for the purpose of enforcing this act and the rules promul-
22 gated under this act.

23 (6) THE DEPARTMENT OR A CERTIFIED UNDERGROUND STORAGE TANK
24 SYSTEM INSPECTOR WITHIN HIS OR HER JURISDICTION, AT THE DISCRE-
25 TION OF THE DEPARTMENT OR INSPECTOR AND WITHOUT A COMPLAINT AND
26 WITHOUT RESTRAINT OR LIABILITY FOR TRESPASS, MAY, AT AN HOUR
27 REASONABLE UNDER THE CIRCUMSTANCES INVOLVED, ENTER INTO AND UPON

- 1 REAL PROPERTY INCLUDING A BUILDING OR PREMISES WHERE REGULATED
- 2 SUBSTANCES MAY BE STORED, FOR THE PURPOSE OF INSPECTING AND
- 3 EXAMINING THE PROPERTY, BUILDINGS, OR PREMISES, AND THEIR OCCU-
- 4 PANCIES AND CONTENTS, TO DETERMINE COMPLIANCE WITH THIS ACT AND
- 5 THE RULES PROMULGATED UNDER THIS ACT.