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BILL ANALYSIS



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House Bill 5380 (as reported without amendment)
Sponsor: Representative Ken Sikkema
House Committee: Conservation, Environment and Great Lakes
Senate Committee: Natural Resources and Environmental Affairs

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to specify liability for cleanup costs for leaking underground storage tanks (USTs) and require that response activities executed on a release from an UST system be conducted according to the corrective actions specified in Part 213 (Underground Storage Tanks), and not under Part 201 (Environmental Response). The bill is tie-barred to House Bill 5381.

The Act provides that a person who, after June 5, 1995, is responsible for an activity causing a release in excess of the concentrations that satisfy certain criteria, as appropriate for the use of the property, is subject to a civil fine as provided in Part 201 unless a fine or penalty has already been imposed for the release under another part of the Act, or the person made a good faith effort to prevent the release and to comply with Part 201. House Bill 5380 specifies that this provision would not apply to a release from an UST system as defined in Part 213.

The Act exempts from liability the owner or operator of an UST system or the property on which a system is located, as defined in Part 213, from which there is a release or threat of release if the release or threat is solely from an UST system and is subject to corrective action under Part 213. If the release at a facility was not solely the result of a release or threat of release from an UST system, the owner or operator of the system or the property on which it is located may choose to conduct corrective actions of the release under Part 213. The bill would delete these provisions and specify, instead, that in spite of any other provision of Part 201, if a release or threat of release at a facility were solely the result of a release or threat of release from an UST system regulated under Part 213, the response activities implemented at the facility would have to be the corrective actions required under Part 213, and the requirements of Part 201 would not apply to that release. If a release or threat of release at a facility were not solely the result of a release or threat of release from an UST system, the owner or operator of the system as defined in Part 213 could choose to conduct corrective actions of the release under Part 213, and Part 201 would not apply to that release.

MCL 324.20101 et al.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill could result in an indeterminate increase in State liability for cleanup costs, subject to the appropriations process. The number of and the amount of contamination on sites affected by the shift from the more stringent liability standards in Part 213 to those in Part 201 are unknown. The State orphan share fund, which is subject to the appropriations process, would become the funding tool for those sites without an identifiable responsible party.

Date Completed: 2-12-96

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.