

Act No. 12  
Public Acts of 1995  
Approved by the Governor  
March 31, 1995  
Filed with the Secretary of State  
March 31, 1995

**STATE OF MICHIGAN**  
**88TH LEGISLATURE**  
**REGULAR SESSION OF 1995**

Introduced by Senators Bennett, Gast, Shugars, McManus, Gougeon, North, Emmons, Stille, Rogers,  
Steil and Cisky

# **ENROLLED SENATE BILL No. 383**

AN ACT to amend sections 21510 and 21512 of Act No. 451 of the Public Acts of 1994, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," being sections 324.21510 and 324.21512 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 21510 and 21512 of Act No. 451 of the Public Acts of 1994, being sections 324.21510 and 324.21512 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 21510. (1) Except as provided in section 21521, an owner or operator is eligible to receive money from the fund or bond proceeds account for corrective action or indemnification only if all of the following requirements are satisfied and the owner or operator otherwise complies with this part:

(a) The release from which the corrective action or indemnification arose was discovered and reported on or after July 18, 1989.

(b) The petroleum underground storage tank from which the release occurred was, at the time of discovery of the release, and is presently, in compliance with the registration and fee requirements of part 211 and the rules promulgated under that part.

(c) The owner or operator or a consultant retained by the owner or operator reported the release within 24 hours after its discovery as required by part 211 and the rules promulgated under that part.

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

(e) The claim or request for indemnification is submitted to the administrator pursuant to this part and the rules promulgated under this part on or before December 22, 1998.

(f) Until January 1, 1997, the claim is not for a release from an underground storage tank closed prior to January 1, 1974, in compliance with the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws, and the rules promulgated under that act.

(2) The owner or operator may receive money from the fund or bond proceeds account for corrective action or indemnification due to a release that originates from an aboveground piping and dispensing portion of a petroleum underground storage tank system if all of the following requirements are satisfied:

- (a) The owner or operator is otherwise in compliance with this part and the rules promulgated under this part.
  - (b) The release is sudden and immediate.
  - (c) The release is of a quantity exceeding 25 gallons and is released into groundwater, surface water, or soils.
  - (d) The release is reported to the department of natural resources, underground storage tank division within 24 hours of discovery of the release.
- (3) Either the owner or the operator may receive money from the fund or bond proceeds account under this part for an occurrence, but not both.
- (4) An owner or operator who is a public utility with more than 500,000 customers in this state is ineligible to receive money from the fund or bond proceeds account for corrective action or indemnification associated with a release from a petroleum underground storage tank system used to supply petroleum for the generation of steam electricity.
- (5) If an owner or operator has received money from the fund or bond proceeds account under this part for a release at a location, the owner and operator are not eligible to receive money from the fund or bond proceeds account for a subsequent release at the same location unless the owner or operator has done either or both of the following:
- (a) Discovered the subsequent release pursuant to corrective action being taken on a confirmed release and included this subsequent release as part of the corrective action for the confirmed release.
  - (b) Upgraded, replaced, removed, or properly closed in place all underground storage tank systems at the location of the release so as to meet the requirements of part 211 and the rules promulgated under that part.
- (6) An owner or operator who discovers a subsequent release at the same location as an initial release pursuant to subsection (5)(a) may receive money from the fund or bond proceeds account to perform corrective action on the subsequent release, if the owner or operator otherwise complies with the requirements of this part and the rules promulgated under this part. However, the subsequent release shall be considered as part of the claim for the initial release for purposes of determining the total amount of expenditures for corrective action and indemnification under section 21512.
- (7) An owner or operator who discovers a subsequent release at the same location as an initial release following compliance with subsection (5)(b) may receive money from the fund or bond proceeds account to perform corrective action on the subsequent release, if there have been not more than 2 releases at the location, if the owner or operator pays the subsequent release co-pay amount pursuant to section 21514, and if the owner or operator otherwise complies with the requirements of this part and the rules promulgated under this part. The subsequent release shall be considered a separate claim for purposes of determining the total amount of expenditures for corrective action and indemnification under section 21512.
- (8) The department shall annually evaluate and report to the legislature the impact on the solvency of the fund of the submittal date provided in subsection (1)(e). The legislature shall examine the report required under this subsection and take such action as is necessary to assure the solvency of the fund.
- (9) The department shall complete a study of the fiscal soundness of the fund by May 1, 1995. The study shall project costs and revenues over the remaining life of the fund. The study shall also consider and outline appropriate cost containment measures to assure the long term viability of the fund.

Sec. 21512. (1) Except as provided in subsection (4), the administrator shall approve expenditures for corrective action and indemnification, on behalf of an owner or operator, of not more than a total of the following amounts per claim submitted if the owner or operator has met the requirements of this part and the rules promulgated under this part:

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

(i) Claims submitted through December 31, 1995	\$1,000,000.00
(ii) Claims submitted from January 1, 1996 to December 31, 1996	\$ 800,000.00
(iii) Claims submitted from January 1, 1997 to December 31, 1997	\$ 600,000.00
(iv) Claims submitted from January 1, 1998 to December 22, 1998	\$ 400,000.00

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

(i) Claims submitted through December 31, 1996	\$1,000,000.00
(ii) Claims submitted from January 1, 1997 through December 31, 1997	\$ 800,000.00
(iii) Claims submitted from January 1, 1998 through December 22, 1998	\$ 600,000.00

(2) Beginning December 23, 1998, the fund will not be available to provide any portion of an owner's or operator's financial responsibility requirements.

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

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

Section 2. This amendatory act shall take effect March 30, 1995.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.