



SENATE BILL No. 382

March 14, 1995, Introduced by Senators BENNETT and GAST and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend sections 9 and 10 of Act No. 518 of the Public Acts of 1988, entitled as amended "Michigan underground storage tank financial assurance act," as amended by Act No. 212 of the Public Acts of 1993, being sections 299.809 and 299.810 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 9 and 10 of Act No. 518 of the Public
2 Acts of 1988, as amended by Act No. 212 of the Public Acts of
3 1993, being sections 299.809 and 299.810 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 9. (1) Except as provided in section 18, an owner or
6 operator is eligible to receive money from the fund or bond pro-
7 ceeds account for corrective action or indemnification only if
8 all of the following requirements are satisfied and the owner or
9 operator otherwise complies with this act:

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

4 (b) The petroleum underground storage tank from which the
5 release occurred was, at the time of discovery of the release,
6 and is presently, in compliance with the registration and fee
7 requirements of the underground storage tank regulatory act, Act
8 No. 423 of the Public Acts of 1984, being sections 299.701 to
9 299.712 of the Michigan Compiled Laws, and the rules promulgated
10 under that act.

11 (c) The owner or operator or a consultant retained by the
12 owner or operator reported the release within 24 hours after its
13 discovery as required by Act No. 423 of the Public Acts of 1984
14 and the rules promulgated under that act.

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

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

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

25 (2) The owner or operator may receive money from the fund or
26 bond proceeds account for corrective action or indemnification
27 due to a release that originates from an aboveground piping and

1 dispensing portion of a petroleum underground storage tank
2 system, if all of the following requirements are satisfied:

3 (a) The owner or operator is otherwise in compliance with
4 this act and the rules promulgated under this act.

5 (b) The release is sudden and immediate.

6 (c) The release is of a quantity exceeding 25 gallons and is
7 released into groundwater, surface water, or soils.

8 (d) The release is reported to the department of ~~state~~
9 ~~police, fire marshal~~ NATURAL RESOURCES UNDERGROUND STORAGE TANK
10 division within 24 hours of discovery of the release.

11 (3) Either the owner or the operator may receive money from
12 the fund or bond proceeds account under this act for an occur-
13 rence but not both.

14 (4) An owner or operator who is a public utility with more
15 than 500,000 customers in this state is ineligible to receive
16 money from the fund or bond proceeds account for corrective
17 action or indemnification associated with a release from a petro-
18 leum underground storage tank system used to supply petroleum for
19 the generation of steam electricity.

20 (5) If an owner or operator has received money from the fund
21 or bond proceeds account under this act for a release at a loca-
22 tion, the owner and operator are not eligible to receive money
23 from the fund or bond proceeds account for a subsequent release
24 at the same location unless the owner or operator has done either
25 or both of the following:

26 (a) Discovered the subsequent release pursuant to corrective
27 action being taken on a confirmed release and included this

1 subsequent release as part of the corrective action for the
2 confirmed release.

3 (b) Upgraded, replaced, removed, or properly closed in place
4 all underground storage tank systems at the location of the
5 release so as to meet the requirements of Act No. 423 of the
6 Public Acts of 1984, and the rules promulgated under that act.

7 (6) An owner or operator who discovers a subsequent release
8 at the same location as an initial release pursuant to
9 subsection (5)(a) may receive money from the fund or bond pro-
10 ceeds account to perform corrective action on the subsequent
11 release, if the owner or operator otherwise complies with the
12 requirements of this act and the rules promulgated under this
13 act. However, the subsequent release shall be considered as part
14 of the claim for the initial release for purposes of determining
15 the total amount of expenditures for corrective action and indem-
16 nification under section 10.

17 (7) An owner or operator who discovers a subsequent release
18 at the same location as an initial release following compliance
19 with subsection (5)(b) may receive money from the fund or bond
20 proceeds account to perform corrective action on the subsequent
21 release, if there have been not more than 2 releases at the loca-
22 tion, the owner or operator pays the subsequent release co-pay
23 amount pursuant to section 13, and the owner or operator other-
24 wise complies with the requirements of this act and the rules
25 promulgated under this act. The subsequent release shall be con-
26 sidered a separate claim for purposes of determining the total

1 amount of expenditures for corrective action and indemnification
2 under section 10.

3 (8) THE DEPARTMENT SHALL ANNUALLY EVALUATE AND REPORT TO THE
4 LEGISLATURE THE IMPACT ON THE SOLVENCY OF THE FUND OF THE SUBMIT-
5 TAL DATE PROVIDED IN SUBSECTION (1)(E). THE LEGISLATURE SHALL
6 EXAMINE THE REPORT REQUIRED UNDER THIS SUBSECTION AND TAKE SUCH
7 ACTION AS IS NECESSARY TO ASSURE THE SOLVENCY OF THE FUND.

8 (9) THE DEPARTMENT SHALL COMPLETE A STUDY OF THE FISCAL
9 SOUNDNESS OF THE FUND BY MAY 1, 1995. THE STUDY SHALL PROJECT
10 COSTS AND REVENUES OVER THE REMAINING LIFE OF THE FUND. THE
11 STUDY SHALL ALSO CONSIDER AND OUTLINE APPROPRIATE COST CONTAIN-
12 MENT MEASURES TO ASSURE THE LONG TERM VIABILITY OF THE FUND.

13 Sec. 10. (1) Except as provided in subsection (4), the
14 administrator shall approve expenditures for corrective action
15 and indemnification, on behalf of an owner or operator, of not
16 more than a total of the following amounts per claim submitted if
17 the owner or operator has met the requirements of this act and
18 the rules promulgated under this act:

19 (a) For underground storage tank systems that, on ~~the~~
20 ~~effective date of the amendatory act that added subsection (4)~~
21 OCTOBER 26, 1993, have been upgraded pursuant to the underground
22 storage tank regulatory act, Act No. 423 of the Public Acts of
23 1984, being sections 299.701 to 299.712 of the Michigan Compiled
24 Laws, and the rules promulgated under that act:

25 (i) Claims submitted through December 31,

26 ~~1994~~ 1995

\$1,000,000.00

1 (ii) Claims submitted from January 1, ~~1995~~
2 1996 to December 31, ~~1995~~ 1996 \$ 800,000.00
3 (iii) Claims submitted from January 1, ~~1996~~
4 1997 to December 31, ~~1996~~ 1997 \$ 600,000.00
5 (iv) Claims submitted from January 1, ~~1997~~
6 1998 to December ~~31, 1997~~ 22, 1998 \$ 400,000.00
7 ~~(v) Claims submitted from January 1, 1998 to~~
8 ~~December 22, 1998~~ \$ ~~200,000.00~~

9 (b) For underground storage tank systems that, on ~~the~~
10 ~~effective date of the amendatory act that added subsection (4)~~
11 OCTOBER 26, 1993, have not been upgraded pursuant to Act No. 423
12 of the Public Acts of 1984 and the rules promulgated under that
13 act:

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

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

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

26 (4) If, upon review of the study conducted under section 24,
27 the director of the department, in consultation with the

1 insurance commissioner, determines that insurance is not
2 available to meet the owner's and operator's portion of financial
3 responsibility requirements, or that the insurance that is avail-
4 able is not available for a reasonable cost, then the director of
5 the department may delay implementation of the schedule provided
6 in subsection (1). Upon making such a determination, the direc-
7 tor of the department shall publish notice of the revised
8 schedule. However, the revised implementation schedule shall not
9 require the fund to provide any portion of an owner's or
10 operator's financial responsibility requirements after
11 December 22, 1998.