



SENATE BILL No. 383

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 21510 and 21512 of Act No. 451 of
the Public Acts of 1994, entitled
"Natural resources and environmental protection act,"
being sections 324.21510 and 324.21512 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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 part 211 and the rules promulgated under that
8 part.

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

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

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

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

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

1 (a) The owner or operator is otherwise in compliance with
2 this part and the rules promulgated under this part.

3 (b) The release is sudden and immediate.

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

6 (d) The release is reported to the department of natural
7 resources, underground storage tank division within 24 hours of
8 discovery of the release.

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

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

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

24 (a) Discovered the subsequent release pursuant to corrective
25 action being taken on a confirmed release and included this sub-
26 sequent release as part of the corrective action for the
27 confirmed release.

1 (b) Upgraded, replaced, removed, or properly closed in place
2 all underground storage tank systems at the location of the
3 release so as to meet the requirements of part 211 and the rules
4 promulgated under that part.

5 (6) An owner or operator who discovers a subsequent release
6 at the same location as an initial release pursuant to
7 subsection (5)(a) may receive money from the fund or bond pro-
8 ceeds account to perform corrective action on the subsequent
9 release, if the owner or operator otherwise complies with the
10 requirements of this part and the rules promulgated under this
11 part. However, the subsequent release shall be considered as
12 part of the claim for the initial release for purposes of deter-
13 mining the total amount of expenditures for corrective action and
14 indemnification under section 21512.

15 (7) An owner or operator who discovers a subsequent release
16 at the same location as an initial release following compliance
17 with subsection (5)(b) may receive money from the fund or bond
18 proceeds account to perform corrective action on the subsequent
19 release, if there have been not more than 2 releases at the loca-
20 tion, if the owner or operator pays the subsequent release co-pay
21 amount pursuant to section 21514, and if the owner or operator
22 otherwise complies with the requirements of this part and the
23 rules promulgated under this part. The subsequent release shall
24 be considered a separate claim for purposes of determining the
25 total amount of expenditures for corrective action and indemnifi-
26 cation under section 21512.

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

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

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

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

20 (i) Claims submitted through December 31,

21 ~~1994~~ 1995 \$1,000,000.00

22 (ii) Claims submitted from January 1, ~~1995~~

23 1996 to December 31, ~~1995~~ 1996 \$ 800,000.00

24 (iii) Claims submitted from January 1, ~~1996~~

25 1997 to December 31, ~~1996~~ 1997 \$ 600,000.00

26 (iv) Claims submitted from January 1, ~~1997~~

27 1998 to December ~~31, 1997~~ 22, 1998 \$ 400,000.00

1 ~~(v) Claims submitted from January 1, 1998 to~~
 2 ~~December 22, 1998~~ ~~\$ 200,000.00~~

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

6 (i) Claims submitted through December 31, 1996 \$1,000,000.00

7 (ii) Claims submitted from January 1, 1997
 8 through December 31, 1997 \$800,000.00

9 (iii) Claims submitted from January 1, 1998
 10 through December 22, 1998 \$600,000.00

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

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

18 (4) If, upon review of the study conducted under section
 19 21547, the director, in consultation with the insurance commis-
 20 sioner, determines that insurance is not available to meet the
 21 owner's and operator's portion of financial responsibility
 22 requirements, or that the insurance that is available is not
 23 available for a reasonable cost, then the director may delay
 24 implementation of the schedule provided in subsection (1). Upon
 25 making such a determination, the department shall publish notice
 26 of the revised schedule. However, the revised implementation
 27 schedule shall not require the fund to provide any portion of an

1 owner's or operator's financial responsibility requirements after
2 December 22, 1998.

3 Section 2. This amendatory act shall take effect March 30,
4 1995.