

# SENATE BILL No. 531

June 28, 2011, Introduced by Senators MEEKHOF, PROOS, KOWALL, PAPPAGEORGE, MARLEAU and WALKER and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 21302 and 21303 (MCL 324.21302 and 324.21303),  
section 21302 as amended by 1995 PA 22 and section 21303 as amended  
by 1996 PA 116.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 21302. As used in this part:

2       (A) "ALL APPROPRIATE INQUIRY" MEANS AN EVALUATION OF  
3 ENVIRONMENTAL CONDITIONS AT A PROPERTY AT THE TIME OF PURCHASE,  
4 OCCUPANCY, OR FORECLOSURE THAT REASONABLY DEFINES THE EXISTING  
5 CONDITIONS AND CIRCUMSTANCES AT THE PROPERTY IN CONFORMANCE WITH 40  
6 CFR 312.

7       (B) "BASELINE ENVIRONMENTAL ASSESSMENT" MEANS A WRITTEN  
8 DOCUMENT THAT DESCRIBES THE RESULTS OF AN ALL APPROPRIATE INQUIRY

1 AND THE SAMPLING AND ANALYSIS THAT CONFIRM THAT THE PROPERTY IS A  
2 SITE. HOWEVER, FOR PURPOSES OF A BASELINE ENVIRONMENTAL ASSESSMENT,  
3 THE ALL APPROPRIATE INQUIRY UNDER 40 CFR 312.20(A) MAY BE CONDUCTED  
4 WITHIN 45 DAYS AFTER THE DATE OF ACQUISITION OF A PROPERTY AND THE  
5 COMPONENTS OF AN ALL APPROPRIATE INQUIRY UNDER 40 CFR 312.20(B) AND  
6 40 CFR 312.20(C)(3) MAY BE CONDUCTED OR UPDATED WITHIN 45 DAYS  
7 AFTER THE DATE OF ACQUISITION OF A PROPERTY.

8 (C) ~~(a)~~—"Biota" means the plant and animal life in an area  
9 affected by a corrective action plan.

10 (D) ~~(b)~~—"Consultant" means a person on the list of qualified  
11 underground storage tank consultants prepared pursuant to section  
12 21542.

13 (E) ~~(c)~~—"Contamination" means the presence of a regulated  
14 substance in soil or groundwater **THAT HAS BEEN RELEASED FROM AN**  
15 **UNDERGROUND STORAGE TANK SYSTEM AT A CONCENTRATION EXCEEDING**  
16 **CLEANUP CRITERIA UNDER THIS PART FOR RESIDENTIAL USE.**

17 (F) ~~(d)~~—"Corrective action" means the investigation,  
18 assessment, cleanup, removal, containment, isolation, treatment, or  
19 monitoring of regulated substances released into the environment,  
20 or the taking of such other actions **UNDER THIS PART** as may be  
21 necessary to prevent, minimize, or mitigate injury to the public  
22 health, safety, or welfare, the environment, or natural resources.

23 (G) ~~(e)~~—"De minimis spill" means a spill of petroleum as that  
24 term is described in section 21303(d)(ii) that contaminates not more  
25 than 20 cubic yards of soil per underground storage tank or 50  
26 cubic yards of soil per location, in which groundwater has not been  
27 affected by the spill, and which is abated pursuant to section

1 21306.

2 (H) ~~(f)~~—"Free product" means a regulated substance in a liquid  
3 phase equal to or greater than 1/8 inch of measurable thickness,  
4 that is not dissolved in water, and that has been released into the  
5 environment.

6 (I) ~~(g)~~—"Groundwater" means water below the land surface in  
7 the zone of saturation.

8 (J) ~~(h)~~—"Heating oil" means petroleum that is no. 1, no. 2,  
9 no. 4-light, no. 4-heavy, no. 5-light, no. 5-heavy, and no. 6  
10 technical grades of fuel oil; other residual fuel oils including  
11 navy special fuel oil and bunker c; and other fuels when used as  
12 substitutes for 1 of these fuel oils. Heating oil is typically used  
13 in the operation of heating equipment, boilers, or furnaces.

14 (K) ~~(i)~~—"Local unit of government" means a city, village,  
15 township, county, fire department, or local health department as  
16 defined in section 1105 of the public health code, ~~Act No. 368 of~~  
17 ~~the Public Acts of 1978, being section 333.1105 of the Michigan~~  
18 ~~Compiled Laws.1978 PA 368, MCL 333.1105.~~

19 Sec. 21303. As used in this part:

20 (a) "Operator" means a person who is presently, or was at the  
21 time of a release, in control of, or responsible for, the operation  
22 of an underground storage tank system. ~~and who is liable under part~~  
23 ~~201.~~

24 (b) "Owner" means a person who holds, or at the time of a  
25 release who held, a legal, equitable, or possessory interest of any  
26 kind in an underground storage tank system or in the property on  
27 which an underground storage tank system is located including, but

1 not limited to, a trust, vendor, vendee, lessor, or lessee. ~~and who~~  
2 ~~is liable under part 201.~~

3 (c) "RBCA" means the American society for testing and  
4 materials (ASTM) document entitled standard guide for risk-based  
5 corrective action applied at petroleum release sites, designation E  
6 1739-95, which is hereby incorporated by reference.

7 (d) "Regulated substance" means any of the following:

8 (i) A substance defined in section 101(14) of title I of the  
9 comprehensive environmental response, compensation, and liability  
10 act of 1980, Public Law 96-510, 42 ~~U.S.C.~~ **USC** 9601, but not  
11 including a substance regulated as a hazardous waste under subtitle  
12 C of the solid waste disposal act, title II of Public Law 89-272,  
13 42 ~~U.S.C.~~ **USC** 6921 to 6939e.

14 (ii) Petroleum, including crude oil or any fraction of crude  
15 oil that is liquid at standard conditions of temperature and  
16 pressure (60 degrees Fahrenheit and 14.7 pounds per square inch  
17 absolute). Petroleum includes but is not limited to mixtures of  
18 petroleum with de minimis quantities of other regulated substances  
19 and petroleum-based substances composed of a complex blend of  
20 hydrocarbons derived from crude oil through processes of  
21 separation, conversion, upgrading, or finishing such as motor  
22 fuels, jet fuels, distillate fuel oils, residual fuel oils,  
23 lubricants, and petroleum solvents.

24 (iii) A substance listed in section 112 of part A of title I of  
25 the clean air act, chapter 360, 84 Stat. 1685, 42 ~~U.S.C.~~ **USC** 7412.

26 (e) "Release" means any spilling, leaking, emitting,  
27 discharging, escaping, or leaching from an underground storage tank

1 system into groundwater, surface water, or subsurface soils.

2 (f) "Site" means a location where a release has occurred or a  
3 threat of release exists from an underground storage tank system,  
4 excluding any location where corrective action was completed which  
5 satisfies the cleanup criteria for unrestricted residential use  
6 under this part.

7 (g) "Threat of release" or "threatened release" means any  
8 circumstance that may reasonably be anticipated to cause a release.

9 **THREAT OF RELEASE OR THREATENED RELEASE DOES NOT INCLUDE THE**  
10 **OWNERSHIP OR OPERATION OF AN UNDERGROUND STORAGE TANK SYSTEM IF THE**  
11 **UNDERGROUND STORAGE TANK SYSTEM IS OPERATED IN ACCORDANCE WITH PART**  
12 **211 AND RULES PROMULGATED UNDER THAT PART.**

13 (h) "Tier I", "tier II", and "tier III" mean those terms as  
14 they are used in RBCA.

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

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

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

27 (iii) A septic tank.

1 (iv) A pipeline facility, including gathering lines regulated  
2 under either of the following:

3 (A) The natural gas pipeline safety act of 1968, Public Law  
4 90-481, 49 ~~U.S.C.~~ **USC** Appx 1671 to 1677, 1679a to 1682, and 1683 to  
5 1687.

6 (B) Sections 201 to 215 and 217 of the hazardous liquid  
7 pipeline safety act of 1979, title II of Public Law 96-129, 49  
8 ~~U.S.C.~~ **USC** Appx 2001 to 2015.

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

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

11 (vii) A flow-through process tank.

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

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

17 (x) Any pipes connected to a tank that is described in  
18 subdivisions (i) to (ix).

19 (xi) An underground storage tank system holding hazardous  
20 wastes listed or identified under subtitle C of the solid waste  
21 disposal act, title II of Public Law 89-272, 42 ~~U.S.C.~~ **USC** 6921 to  
22 6939e, or a mixture of such hazardous waste and other regulated  
23 substances.

24 (xii) A wastewater treatment tank system that is part of a  
25 wastewater treatment facility regulated under section 307(b) of  
26 title III or section 402 of title IV of the federal water pollution  
27 control act, 33 ~~U.S.C.~~ **USC** 1317 and 1342.

1           (xiii) Equipment or machinery that contains regulated substances  
2 for operational purposes such as hydraulic lift tanks and  
3 electrical equipment tanks.

4           (xiv) An underground storage tank system that has a capacity of  
5 110 gallons or less.

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

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

10          (j) "Vadose zone" means the zone between the land surface and  
11 the water table, or zone of saturation. Vadose zone is also known  
12 as an unsaturated zone or a zone of aeration.

13          Enacting section 1. This amendatory act does not take effect  
14 unless all of the following bills of the 96th Legislature are  
15 enacted into law:

16           (a) Senate Bill No. 528.

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18           (b) Senate Bill No. 529.

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20           (c) Senate Bill No. 533.

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22           (d) Senate Bill No. 530.

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24           (e) Senate Bill No. 532.