

Act No. 134  
Public Acts of 2017  
Approved by the Governor  
October 26, 2017  
Filed with the Secretary of State  
October 26, 2017  
EFFECTIVE DATE: January 24, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

Introduced by Reps. Whiteford, Victory, Howell, VanSingel, VerHeulen and Cole

# **ENROLLED HOUSE BILL No. 4583**

AN ACT to amend 1994 PA 451, 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 protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 21506a and 21510d (MCL 324.21506a and 324.21510d), section 21506a as amended by 2016 PA 467 and section 21510d as added by 2016 PA 380, and by adding section 21519a.

*The People of the State of Michigan enact:*

Sec. 21506a. (1) The refined petroleum fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the refined petroleum fund. The state treasurer shall direct the investment of the refined petroleum fund. The state treasurer shall credit to the refined petroleum fund interest and earnings from refined petroleum fund investments.

(3) Money in the refined petroleum fund at the close of the fiscal year remains in the refined petroleum fund and does not lapse to the general fund.

(4) Money from the refined petroleum fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

(a) Corrective actions performed by the department pursuant to section 21320.

(b) The legacy release program created in section 21519a.

(c) The reasonable costs of the department in administering the refined petroleum fund and implementing part 213.

(d) Not more than \$5,000,000.00 annually for petroleum product inspection programs under both of the following:

(i) The weights and measures act, 1964 PA 283, MCL 290.601 to 290.635.

(ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to 290.650d.

(e) Not more than \$3,000,000.00 annually for the bureau of fire services and office of the state fire marshal, storage tank division, in the department of licensing and regulatory affairs.

(f) Reimbursement by the authority to local units of government and county road commissions for the costs of corrective action to manage, relocate, or dispose of any media contaminated by regulated substances left in place within a public highway pursuant to section 21310a if all of the following occur:

(i) The local unit of government or county road commission has submitted to the authority a claim for reimbursement on a form created by the authority.

(ii) The claim for reimbursement is for reasonable and necessary eligible corrective action costs determined by the administrator pursuant to section 21515(2) to (10).

(iii) The amount of reimbursement is not more than \$200,000.00 per claim.

(g) Not more than \$5,000,000.00 annually for the department to provide grants and loans in accordance with part 196 to facilitate brownfield redevelopment at part 213 properties. Money shall not be provided under this subsection to fund the performance of response activities at a part 213 property to address contamination that is solely attributable to a release regulated under part 201.

(h) The permanent closure of an underground storage tank system by the department if the underground storage tank system meets the conditions that require permanent closure under R 29.2153 of the Michigan Administrative Code or the department determines it is necessary to protect public health, safety, welfare, or the environment.

Sec. 21510d. If an owner or operator intends to rely on the fund to meet financial responsibility requirements, the owner or operator shall submit to the authority a request for a determination that the owner or operator would be eligible for funding under this part in the event of a release from a refined petroleum underground storage tank system. Upon receipt of a request under this subsection, the authority shall make a determination and provide notice of that determination, in writing, to the owner or operator. The notice may contain conditions for maintenance of that eligibility. A determination under this section is based upon a demonstration of all of the following:

(a) The owner or operator is not ineligible for funding under section 21510(4) and (5).

(b) The refined petroleum underground storage tank or tanks are presently in compliance with the registration and fee requirements of part 211.

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

(d) The owner or operator has financial responsibility for the deductible amount. In order to demonstrate that the owner or operator has financial responsibility for the deductible amount under this section and section 21510(1)(f), the owner or operator may rely upon any financial assurance mechanism listed in 40 CFR 280.95 to 280.107 or either of the following:

(i) A financial test of self-insurance. To pass the financial test of self-insurance, the owner or operator must submit, on a form developed by the authority, financial information certified as accurate by the chief financial officer or comparable position that demonstrates a tangible net worth of at least 3 times the deductible amount required under this part.

(ii) A deposit account in the amount of the deductible amount required under this part in a financial institution as defined in section 1202 of the banking code of 1999, 1999 PA 276, MCL 487.11202, if access to the deposit account is restricted by a deposit account control agreement or similar restriction as approved by the authority that requires the approval of the administrator for a withdrawal from the deposit account.

Sec. 21519a. (1) The department shall establish and the authority shall administer a legacy release program as provided in this section to reimburse eligible persons for costs of corrective actions for certain historic releases from refined petroleum underground storage tank systems. An eligible person may be reimbursed for corrective action costs incurred if the eligible person demonstrates all of the following:

(a) The release from which the corrective action or indemnification arose was discovered and reported prior to December 30, 2014.

(b) The release upon which the request for reimbursement is based has not been closed pursuant to part 213 prior to December 30, 2014.

(c) Any refined petroleum underground storage tank systems that are operating at the location from which the release occurred are currently in compliance with the registration requirements of part 211.

(d) The request for reimbursement does not include reimbursement for money that was reimbursed from any other source, including insurance policies.

(e) A claim submitted to the legacy release program shall not be approved by the authority for any of the prohibitions listed under section 21510c.

(f) The request for reimbursement is for corrective action performed on or after December 30, 2014.

(2) An eligible person that seeks to be reimbursed under the legacy release program established under this section shall submit to the authority a request for reimbursement on a form provided by the authority containing the documentation required by the authority.

(3) The authority shall approve a request for reimbursement under this section only as follows:

(a) The amount approved for reimbursement shall be 50% of the aggregate indemnification and corrective action costs incurred, but not more than 50% of the reasonable and necessary eligible costs as determined by the administrator pursuant to section 21515(2) to (10).

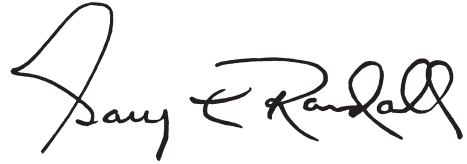
(b) The total amount approved for reimbursement shall not exceed a total of \$50,000.00 for all releases from refined petroleum underground storage tank systems at a single location.

(c) An owner or operator may request a review of a denied claim or work invoice per section 21521.

(4) As used in this section, "eligible person" means the owner or operator of a refined petroleum underground storage tank system at the time of the reporting of the release.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor