

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H2/20/97

# A Bill

ACT 641 OF 1997  
HOUSE BILL 1742

4  
5 By: Representatives McJunkin, Jones, Hausam, Bryant, Kidd, Miller, Wilkinson, Schexnayder, McGehee, Teague, Milum, Rorie,  
6 Willems, Davis, Broadway, Allison, French, Trammell, and Simmons  
7 By: Senator Boozman

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## For An Act To Be Entitled

10  
11 "AN ACT TO AMEND THE REGULATED SUBSTANCE STORAGE TANKS  
12 PROVISIONS CONTAINED IN TITLE 8, CHAPTER 7 OF THE ARKANSAS  
13 CODE ANNOTATED, TO CLARIFY AND REVISE THE LANGUAGE OF THE  
14 EXISTING STATUTE; AND FOR OTHER PURPOSES."

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## Subtitle

17 "AMEND THE REGULATED SUBSTANCE STORAGE  
18 TANKS PROVISIONS CONTAINED IN TITLE 8,  
19 CHAPTER 7 TO CLARIFY AND REVISE THE  
20 LANGUAGE OF THE EXISTING STATUTE."

21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code 8-7-902(2) is amended to read as follows:

25 "(2) Accidental release means any sudden or nonsudden confirmed  
26 release of petroleum from a storage tank that results in a need for corrective  
27 action or compensation for bodily injury or property damage, or both, neither  
28 expected nor intended by the tank owner or operator."

29

30 SECTION 2. Arkansas Code 8-7-903(c) is amended to read as follows:

31 "(c) The department shall have the authority to enter upon the  
32 property of any owner or operator of an aboveground storage tank to  
33 obtain information, conduct surveys, or review records for the purpose  
34 of determining substantial compliance, as defined by this subchapter  
35 and regulations promulgated thereunder, with all state and federal  
36 laws and regulations relating to aboveground storage tanks prior to

1 ~~commission~~ the directors approval of a claim for reimbursement or  
2 disbursement."

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4 SECTION 3. Arkansas Code 8-7-905(d) is amended to read as follows:

5 "(d) Moneys in the fund may be expended by the director solely for  
6 the following purposes, as limited by the provisions of subsection (e)  
7 of this section:

8 (1) The state share mandated by the federal Resource Conservation  
9 and Recovery Act of 1976, as amended;

10 (2) To pay costs incurred by the commission, the director, the Attorney  
11 General or the advisory committee in the performance of their duties under  
12 this subchapter;

13 (3) To pay reimbursement for taking corrective action or to  
14 compensate owners or operators for claims by third parties for bodily  
15 injury and property damage, or both, caused by accidental releases  
16 from qualified storage tanks;

17 (4) To pay reasonable and necessary costs and expenses of the  
18 department for taking corrective action caused by accidental releases  
19 from a storage tank of unknown ownership or when corrective action is  
20 not commenced by the owner or operator in a timely manner;

21 (5) To reimburse owners and operators in the vicinity of the  
22 release for performing short-term testing or monitoring which is in  
23 addition to that required by the department's rules and regulations if  
24 the department has a reasonable basis for believing that such  
25 petroleum underground storage tank or tanks may be the source of the  
26 release. The owners and operators of petroleum underground storage  
27 tanks, including out-of-service and nonoperational tanks, not found to  
28 be the source of the release and who cooperate with the department may  
29 apply to the fund for reimbursement for such testing and monitoring  
30 costs, not including lost managerial time or loss of revenues because  
31 of temporary business closure."

32

33 SECTION 4. Arkansas Code 8-7-906(g)(2) and (3) are amended to read as  
34 follows:

35 "(2)(A) For so long as no bonds for the benefit of the fund are  
36 outstanding, the fee shall be collected at the maximum rate; provided,

1 however, that when the balance of the fund, as adjusted to reflect the  
2 obligations and liabilities of the fund, reaches fifteen million  
3 dollars (\$15,000,000), the rate shall drop at the beginning of the  
4 next calendar quarter to such rate as the commission determines is  
5 necessary to maintain a fifteen million dollar (\$15,000,000) adjusted balance.

6 (B) The rate shall be increased at the beginning of the next  
7 calendar quarter when the fund balance, as adjusted to reflect the obligations  
8 and liabilities of the fund, drops to twelve million dollars  
9 (\$12,000,000) or less and remain at the higher amount, not to exceed  
10 two-tenths of one cent (0.2%), until the adjusted fund balance reaches  
11 fifteen  
12 million dollars (\$15,000,000).

13 (3) The commission shall review the fund balance, as adjusted to reflect  
14 the obligations and liabilities of the fund, at least quarterly and report the  
15 rate of collection for the environmental assurance fee for the upcoming  
16 quarter to the Director of the Department of Finance and Administration."

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18 SECTION 5. Arkansas Code 8-7-908(d) is amended to read as follows:

19 "(d)(1) Any owner or operator against whom a third-party claim is  
20 filed in court or in the Arkansas State Claims Commission shall give  
21 written notice of the claim to the department no later than ~~sixty (60)~~ twenty  
22 (20) days after service of summons or receipt of notification of the claim  
23 from the Arkansas State Claims Commission.

24 (2) Upon receipt of such notice, the department shall immediately  
25 notify the Attorney General, who shall have the right to intervene in  
26 any such lawsuit or proceeding in order to protect the interests of the state  
27 in the fund.

28 (3) Payment of third-party claims from the fund may be denied for  
29 any owner or operator who fails to give the department notice as  
30 required herein."

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32 SECTION 6. All provisions of this act of a general and permanent nature  
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
34 Revision Commission shall incorporate the same in the Code.

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36 SECTION 7. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect  
2 other provisions or applications of the act which can be given effect without  
3 the invalid provision or application, and to this end the provisions of this  
4 act are declared to be severable.

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6 SECTION 8. All laws and parts of laws in conflict with this act are  
7 hereby repealed.

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*/s/Rep. McJunkin*

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APPROVED:3-18-97

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