

1 State of Arkansas
2 81st General Assembly
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A Bill

SENATE BILL 442

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

For An Act To Be Entitled

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."

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."

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

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."

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."

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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) 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 fund balance reaches fifteen
11 million dollars (\$15,000,000).

12 (3) The commission shall review the fund balance, as adjusted to reflect
13 the obligations and liabilities of the fund, at least quarterly and report the
14 rate of collection for the environmental assurance fee for the upcoming
15 quarter to the Director of the Department of Finance and Administration."
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17 SECTION 5. Arkansas Code 8-7-908(d) is amended to read as follows:

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

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

27 (3) Payment of third-party claims from the fund may be denied for
28 any owner or operator who fails to give the department notice as
29 required herein."
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31 SECTION 6. All provisions of this act of a general and permanent nature
32 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
33 Revision Commission shall incorporate the same in the Code.
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35 SECTION 7. If any provision of this act or the application thereof to
36 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
 2 the invalid provision or application, and to this end the provisions of this
 3 act are declared to be severable.

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

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