

Act No. 252
Public Acts of 1995
Approved by the Governor
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STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995

**Introduced by Reps. LeTarte, Bush, Hill, Rocca, Voorhees, Green, Gernaat, Griffin, Brewer, Baade, Harder, Walberg, Yokich, Hammerstrom, Rhead, Goschka, DeLange and Weeks
Reps. Bobier, Bodem, Brackenridge, Brater, Bullard, Clack, DeHart, DeMars, Dobb, Dolan, Gagliardi, Gnodtke, Gustafson, Jellema, Jersevic, Kelly, Kukuk, LaForge, London, Lowe, McBryde, McManus, McNutt, Middaugh, Nye, Parks, Perricone, Randall, Ryan, Sikkema, Tesanovich, Varga and Wallace
named co-sponsors**

ENROLLED HOUSE BILL No. 5349

AN ACT to amend sections 21510 and 21550 of Act No. 451 of the Public Acts of 1994, 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 prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," section 21510 as amended by Act No. 12 of the Public Acts of 1995, being sections 324.21510 and 324.21550 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. Sections 21510 and 21550 of Act No. 451 of the Public Acts of 1994, section 21510 as amended by Act No. 12 of the Public Acts of 1995, being sections 324.21510 and 324.21550 of the Michigan Compiled Laws, are amended to read as follows:

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

(a) The release from which the corrective action or indemnification arose was discovered and reported on or after July 18, 1989.

(b) The petroleum underground storage tank from which the release occurred was, at the time of discovery of the release, and is presently, in compliance with the registration and fee requirements of part 211 and the rules promulgated under that part.

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

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

(e) The work invoice or request for indemnification is submitted to the administrator pursuant to this part and the rules promulgated under this part on or before 5 p.m., June 29, 1995.

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

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

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

(b) The release is sudden and immediate.

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

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

(3) Either the owner or the operator may receive money from the fund or bond proceeds account under this part for an occurrence, but not both.

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

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

(a) Discovered the subsequent release pursuant to corrective action being taken on a confirmed release and included this subsequent release as part of the corrective action for the confirmed release.

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

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

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

Sec. 21550. (1) Section 21507 is repealed effective December 22, 1998.

(2) Upon the repeal of section 21507, any unexpended money in the emergency response fund reverts to the fund.

(3) This part is repealed on the date on which the state treasurer files with the secretary of state a notice of final payment of all obligations lawfully payable from the fund pursuant to section 21506(5).

(4) Upon repeal of this part, any money in the fund or in the possession of the authority reverts to the environmental response fund created in part 201.

(5) The authority's obligation to pay off any bonds or notes issued pursuant to this part shall survive the repeal of this part.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 738 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.