

LEGISLATIVE BILL 365

Approved by the Governor March 11, 1987

Introduced by Landis, 46

AN ACT relating to the Petroleum Products and Hazardous Substances Storage and Handling Act; to amend sections 81-15,119 and 81-15,121, Revised Statutes Supplement, 1986; to redefine a term; to change provisions relating to the use of a fund; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-15,119, Revised Statutes Supplement, 1986, be amended to read as follows:

81-15,119. As used in the Petroleum Products and Hazardous Substances Storage and Handling Act, unless the context otherwise requires:

(1) Operator shall mean any person in control of, or having responsibility for, the daily operation of a tank;

(2) Owner shall mean:

(a) In the case of a tank in use on July 17, 1986, or brought into use after such date, any person who owns a tank used for the storage or dispensing of regulated substances; and

(b) In the case of any tank in use before July 17, 1986, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use;

(3) Permanent abandonment shall mean that a tank has been taken permanently out of service as a storage vessel for any reason or has not been used for active storage for more than one year;

(4) Person shall mean any individual, firm, joint venture, partnership, corporation, association, political subdivision, cooperative association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof owning or operating a tank;

(5) Regulated substance shall mean:

(a) Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, but not including any substance regulated as a hazardous waste

under subtitle C of such act; and

(b) Any petroleum product including, but not limited to, petroleum-based motor or vehicle fuels, gasoline, kerosene, and other products used for the purposes of generating power, lubrication, illumination, heating, or cleaning, but shall not include propane or liquefied natural gas;

(6) Release shall mean any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank into ground water, surface water, or subsurface soils;

(7) Tank shall mean any tank or combination of tanks, including underground pipes connected to such tank or tanks, which is used to contain an accumulation of regulated substances and the volume of which is ten per cent or more beneath the surface of the ground. ⁷ either wholly or partially underground, which is used for the storage or dispensing of regulated substances and any piping, pump, or other appurtenance thereto. Tank shall not include any:

(a) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for consumptive use on the premises where stored, subject to a one-time fee;

(b) Tank with a storage capacity of one thousand one hundred gallons or less used for storing heating oil for consumptive use on the premises where stored, subject to a one-time fee;

(c) Septic tank; ~~or~~

(d) Tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel if the tank is situated on or above the surface of the floor; ~~and~~

(e) Pipeline facility, including gathering lines:

(i) Regulated under the Natural Gas Pipeline Safety Act of 1979, 49 U.S.C. App. 1671;

(ii) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. App. 2001; or

(iii) Which is an intrastate pipeline regulated under state law comparable to the laws prescribed in subdivisions (e)(i) and (e)(ii) of this subdivision;

(f) Surface impoundment, pit, pond, or lagoon;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storm water or wastewater collection

system; and

(8) Temporary abandonment shall mean that a tank will be or has been out of service for at least one hundred eighty days but not more than one year.

Sec. 2. That section 81-15,121, Revised Statutes Supplement, 1986, be amended to read as follows:

81-15,121. (1) After January 1, 1987, no person shall (a) maintain or use any tank for the storage of regulated substances or (b) install any new tank without first securing a permit from the State Fire Marshal.

(2) Within six months after January 1, 1987, and each year thereafter, all owners of operating tanks, except those provided for in subsection (3) of this section, shall annually secure a registration permit for each tank. All registration permits shall be annual permits and shall expire on December 31 of the year for which the permit was issued. Such permits shall contain the information specified in subsection (4) of this section.

(3) In the case of tanks permanently abandoned on or after January 1, 1974, an annual permit shall not be required and an initial registration permit shall be sufficient.

(4) The application for a registration permit shall be provided by and filed with the State Fire Marshal's office and shall require, but not be limited to, the following information:

(a) The date the tank was placed in or taken out of operation;

(b) The age of the tank;

(c) The size, type, and location of the tank;

and

(d) The type of substances stored in the tank and the quantity of such substances remaining in the tank if the tank was permanently abandoned prior to July 17, 1986.

(5) The fee for a registration permit issued under subsection (2) of this section shall be based on the size of the tank as follows:

(a) Less than two thousand five hundred gallons, seven dollars and fifty cents per tank;

(b) Two thousand five hundred one to five thousand gallons, ten dollars per tank;

(c) Five thousand one to seven thousand five hundred gallons, twelve dollars and fifty cents per tank; and

(d) Over seven thousand five hundred gallons,

fifteen dollars per tank.

The registration permit fee, collected pursuant to this subsection or section 81-15,120, shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Fund, which is hereby created as a cash fund. The fund shall also consist of any money appropriated by the state. The fund shall be administered by the Department of Environmental Control to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 3. That original sections 81-15,119 and 81-15,121, Revised Statutes Supplement, 1986, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.