

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1169*

Environment and Natural Resources Committee Substitute Adopted 6/11/92

Short Title: Underground Storage Tank Amends '92.

(Public)

Sponsors:

Referred to:

June 3, 1992

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY CERTAIN DEDUCTIBLES APPLICABLE TO THE
2 COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK
3 CLEANUP FUND, TO MAKE CURRENT LANDOWNERS WHO ENGAGE IN
4 CLEANUPS ELIGIBLE FOR REIMBURSEMENT FROM THE COMMERCIAL
5 FUND, AND TO ADD TWO MEMBERS TO THE PETROLEUM
6 UNDERGROUND STORAGE TANK FUNDS COUNCIL.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 143-215.94B(b) reads as rewritten:

10 "(b) The Commercial Fund shall be used for the payment of the following costs up
11 to an aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting
12 from a discharge or release of a petroleum product from a commercial underground
13 storage tank that at the time the discharge or release is discovered or reported is beneath
14 the surface of the ground or has been removed within the preceding 120 days:

15 (1) For discharges or releases discovered or reported between 30 June
16 1988 and 31 December 1991 inclusive, the cleanup of environmental
17 damage as required by G.S. 143-215.94E(a) in excess of fifty thousand
18 dollars (\$50,000) per occurrence.

19 (2) For discharges or releases discovered on or after 1 January 1992 and
20 reported between 1 January 1992 and 31 December 1993 inclusive, the
21 cleanup of environmental damage as required by G.S. 143-215.94E(a)
22 in excess of twenty thousand dollars (\$20,000) per occurrence.

- 1 (3) For discharges or releases reported on or after 1 January 1994, the
2 cleanup of environmental damage as required by G.S. 143-215.94E(a)
3 in excess of twenty thousand dollars (\$20,000) if, prior to the
4 discharge or release, the commercial underground storage tank from
5 which the discharge or release occurred met the performance standards
6 applicable to tanks installed after 22 December 1988 or met the
7 requirements that existing underground storage tanks must meet by 22
8 December 1998.
- 9 (4) For discharges or releases reported on or after 1 January 1994 from a
10 commercial underground storage tank that does not meet the standards
11 in subdivision (3) of this subsection, sixty percent (60%) of the costs
12 per occurrence of the cleanup of environmental damage as required by
13 G.S. 143-215.94E(a) that exceeds twenty thousand dollars (\$20,000)
14 but is not more than one hundred ~~thirty-seven~~fifty-seven thousand five
15 hundred dollars ~~(\$137,500)~~(\$157,500) and one hundred percent
16 (100%) of the costs above this amount, up to the limits established in
17 this section.
- 18 (5) Compensation to third parties for bodily injury and property damage in
19 excess of one hundred thousand dollars (\$100,000) per occurrence.
- 20 (6) Reimbursing the State for damages or other costs incurred as a result
21 of a loan from the Loan Fund. The per occurrence limit does not apply
22 to reimbursements to the State under this subdivision."

23 Sec. 2. G.S. 143-215.94E is amended by adding a new subsection to read:

24 "(b1) In the case of a discharge or release from a commercial underground storage
25 tank where the owner and operator cannot be identified or located, or where the owner
26 and operator fail to proceed as required by subsection (a) of this section, if the current
27 landowner of the land in which the commercial underground storage tank is located
28 notifies the Department in accordance with G.S. 143-215.85 and undertakes to collect
29 and remove the discharge or release and to restore the area affected in accordance with
30 the requirements of this Article and applicable federal and State laws, regulations, and
31 rules, the current landowner may elect to have the Commercial Fund pay or reimburse
32 the current landowner for any costs described in G.S. 143-215.94B(b) that exceed the
33 amounts for which the owner or operator is responsible under that subsection. The
34 current landowner is not eligible for payment or reimbursement until the current
35 landowner has paid the costs described in G.S. 143-215.94B(b) for which the owner or
36 operator is responsible. Eligibility for reimbursement under this subsection may be
37 transferred from a current landowner who has paid the costs described in G.S. 143-
38 215.94B(b) to a subsequent landowner. The sum of payments from the Commercial
39 Fund and from all other sources shall not exceed one million dollars (\$1,000,000) per
40 discharge or release. This subsection shall not be construed to require a current
41 landowner to cleanup a discharge or release of petroleum from an underground storage
42 tank for which the current landowner is not otherwise responsible. This subsection does
43 not alter any right, duty, obligation, or liability of a current landowner, former
44 landowner, subsequent landowner, owner, or operator under other provisions of law.

1 This subsection shall not be construed to limit the authority of the Department to engage
2 in a cleanup under this Article or any other provision of law. In the event that an owner
3 or operator is subsequently identified or located, the Secretary shall seek reimbursement
4 as provided in G.S. 143-215.94G."

5 Sec. 3. G.S. 143-215.94O(a) reads as rewritten:

6 "(a) The North Carolina Petroleum Underground Storage Tank Funds Council is
7 created. The Council shall be composed of ~~nine~~ 11 members as follows:

8 (1) An employee of the Department who is not employed by the section of
9 the Division of Environmental Management responsible for the
10 administration of the underground storage tank cleanup program who
11 shall be appointed by the Secretary and who shall serve at the pleasure
12 of the Secretary.

13 (2) ~~Four~~ Five members appointed by the General Assembly upon the
14 recommendation of the President Pro Tempore of the Senate as
15 follows:

16 a. One who shall, at the time of appointment, be actively
17 connected with a petroleum refining company or an
18 organization representing petroleum refining companies.

19 b. One who shall, at the time of appointment, be actively
20 connected with a petroleum marketer or an organization
21 representing petroleum marketers.

22 c. One who shall, at the time of appointment, be actively
23 connected with an environmental insurance carrier or an
24 organization representing environmental insurance carriers.

25 d. One who shall, at the time of appointment, be actively
26 connected with a commercial lending institution or an
27 organization representing commercial lending institutions.

28 e. One who shall, at the time of appointment, be actively engaged
29 in farming and the owner of a noncommercial petroleum
30 underground storage tank or actively connected with an
31 organization representing farmers.

32 (3) ~~Four~~ Five members appointed by the General Assembly upon the
33 recommendation of the Speaker of the House of Representatives as
34 follows:

35 a. One who shall, at the time of appointment, be an owner or
36 operator of a convenience store that markets petroleum products
37 or is actively connected with an organization representing
38 convenience store owners or operators.

39 b. One who shall, at the time of appointment, be a motor fuel
40 service station dealer or actively connected with an organization
41 representing motor fuel service station dealers.

42 c. One who shall, at the time of appointment, be actively
43 connected with an environmental advocacy organization.

1 d. One who shall, at the time of appointment, have special training
2 and experience in the remediation of groundwater
3 contamination resulting from leaking petroleum underground
4 storage tanks.

5 e. One who shall, at the time of appointment, be the owner of a
6 noncommercial petroleum underground storage tank and not
7 eligible for appointment under subdivisions (1), (2)a. through
8 (2)d., or (3)a. through (3)d. of this subsection."

9 Sec. 4. Initial appointments to the North Carolina Petroleum Underground
10 Storage Tank Funds Council to fill positions that are added by this act shall be for one-
11 year terms expiring 30 June 1993.

12 Sec. 5. Sections 1 and 5 of this act are effective on and after 1 January 1992.
13 Sections 2, 3, and 4 of this act become effective 1 July 1992.