

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1169*

Short Title: Underground Storage Tank Amends '92.

(Public)

Sponsors: Senators Tally; and Smith.

Referred to: Environment and Natural Resources.

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 The General Assembly of North Carolina enacts:

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

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

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

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

22 (3) For discharges or releases reported on or after 1 January 1994, the
23 cleanup of environmental damage as required by G.S. 143-215.94E(a)
24

1 in excess of twenty thousand dollars (\$20,000) if, prior to the
2 discharge or release, the commercial underground storage tank from
3 which the discharge or release occurred met the performance standards
4 applicable to tanks installed after 22 December 1988 or met the
5 requirements that existing underground storage tanks must meet by 22
6 December 1998.

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

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

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

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

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

3 (1) An employee of the Department who is not employed by the section of
4 the Division of Environmental Management responsible for the
5 administration of the underground storage tank cleanup program who
6 shall be appointed by the Secretary and who shall serve at the pleasure
7 of the Secretary.

8 (2) ~~Four~~Five members appointed by the General Assembly upon the
9 recommendation of the President Pro Tempore of the Senate as
10 follows:

11 a. One who shall, at the time of appointment, be actively
12 connected with a petroleum refining company or an
13 organization representing petroleum refining companies.

14 b. One who shall, at the time of appointment, be actively
15 connected with a petroleum marketer or an organization
16 representing petroleum marketers.

17 c. One who shall, at the time of appointment, be actively
18 connected with an environmental insurance carrier or an
19 organization representing environmental insurance carriers.

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

23 e. One who shall, at the time of appointment, be actively engaged
24 in farming and the owner of a noncommercial petroleum
25 underground storage tank or actively connected with an
26 organization representing farmers.

27 (3) ~~Four~~Five members appointed by the General Assembly upon the
28 recommendation of the Speaker of the House of Representatives as
29 follows:

30 a. One who shall, at the time of appointment, be an owner or
31 operator of a convenience store that markets petroleum products
32 or is actively connected with an organization representing
33 convenience store owners or operators.

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

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

39 d. One who shall, at the time of appointment, have special training
40 and experience in the remediation of groundwater
41 contamination resulting from leaking petroleum underground
42 storage tanks.

43 e. One who shall, at the time of appointment, be the owner of a
44 noncommercial petroleum underground storage tank and not

1 eligible for appointment under subdivisions (1), (2)a. through
2 (2)d., or (3)a. through (3)d. of this subsection."

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

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