

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1404

Introduced by

Representatives Wald, Grosz, Schmidt

Senators Christmann, Kroeplin, B. Stenehjem

1 A BILL for an Act to create and enact a new subdivision to subsection 13 of section 2 of chapter
2 299 of the 1991 Session Laws as amended by section 1 of chapter 286 of the 1993 Session
3 Laws and five new subsections to section 27 of chapter 299 of the 1991 Session Laws, relating
4 to the definition of tank and third-party judgments under the petroleum release compensation
5 fund; to amend and reenact sections 17, 19, and 33 of chapter 299 of the 1991 Session Laws,
6 relating to the petroleum release compensation fund; to repeal section 29 of chapter 299 of the
7 1991 Session Laws, relating to petroleum spill reports; and to declare an emergency.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1.** A new subdivision to subsection 13 of section 2 of chapter 299 of the
10 1991 Session Laws as amended by section 1 of chapter 286 of the 1993 Session Laws is
11 created and enacted as follows:

12 An aboveground tank used to feed diesel fuel generators. Upon application,
13 the owner or operator of an aboveground tank used to feed diesel fuel
14 generators may register the tank and is eligible for reimbursement under this
15 Act.

16 **SECTION 2. AMENDMENT.** Section 17 of chapter 299 of the 1991 Session Laws is
17 amended and reenacted as follows:

18 **SECTION 17. Registration fee.** An owner or operator of a tank shall pay an annual
19 registration fee of ~~seventy-five~~ fifty dollars for each aboveground ~~tank and one hundred~~
20 ~~twenty-five dollars for each~~ or underground tank owned or operated by that person. If on the
21 first day of July in any year the amount of money in the petroleum release compensation fund is
22 less than five million dollars, the annual registration fee of fifty dollars is increased to
23 one hundred dollars. If on the first day of July in any year the amount of money in the
24 petroleum release compensation fund is five million five hundred thousand dollars or more and

1 the annual registration fee has been increased to one hundred dollars, the fee must be reduced
2 to fifty dollars. An owner or operator of a tank that was required to be registered by law on or
3 before July 1, 1999, shall pay seventy-five dollars for each aboveground tank and one hundred
4 twenty-five dollars for each underground tank owned or operated by that person for any
5 previous years that the tank was required to be registered for which a fee was not paid. The
6 registration fees collected under this section must be paid to the administrator for deposit in the
7 state treasury for credit to the petroleum release compensation fund.

8 **SECTION 3. AMENDMENT.** Section 19 of chapter 299 of the 1991 Session Laws is
9 amended and reenacted as follows:

10 **SECTION 19. Application for reimbursement.** Any owner or operator who is a
11 first-party claimant who proposes to take corrective action or has undertaken corrective action
12 in response to a release, the time of such release being unknown, may apply to the
13 administrator for partial ~~of~~ or full reimbursement under section 18 of this Act. An owner or
14 operator who is a first-party claimant may be reimbursed only for ~~releases discovered and~~
15 ~~reported after the effective date of this Act~~ costs incurred after July 1, 1989, even if the
16 releases were discovered before July 1, 1989, up to the maximum of twenty-five thousand
17 dollars per location.

18 **SECTION 4.** Five new subsections to section 27 of chapter 299 of the 1991 Session
19 Laws are created and enacted as follows:

20 The fund shall pay a judgment against an owner, operator, or dealer awarded to a
21 third party as a result of a third-party claim against an owner, operator, or dealer
22 covered by the fund, excluding claims for punitive damages or damages for
23 criminal acts.

24 The fund shall pay for corrective action as awarded to a third party in any judgment
25 against an owner, operator, or dealer.

26 Liability of the fund to third parties may not exceed, per person, the maximum
27 liability allowed per person under subsection 2 of section 32-12.2-02. Maximum
28 liability of the fund, including all claims by third parties, may not exceed, for any
29 release site, the maximum provided in section 18 of chapter 299 of the 1991
30 Session Laws.

1 A third party may not bring an action against any owner, operator, or dealer more
2 than three years after a corrective action plan has been approved by the
3 department if the owner, operator, or dealer fully implements and complies with the
4 corrective action plan.

5 In investigating a release site or reviewing the implementation of any corrective
6 action plan approved by the department, the department shall determine whether
7 the release currently threatens public health or the environment. The department
8 shall require, based on science and technology appropriate for the site, any
9 monitoring, remediation, or other appropriate corrective action that is reasonably
10 necessary to protect public health or the environment. The department may
11 require corrective action at a release site at any time after a release occurs.

12 **SECTION 5. AMENDMENT.** Section 33 of chapter 299 of the 1991 Session Laws is
13 amended and reenacted as follows:

14 **SECTION 33. EXPIRATION DATE.** This Act is effective through ~~June 30, 1999~~
15 July 31, 2009, and after that date is ineffective.

16 **SECTION 6. REPEAL.** Section 29 of chapter 299 of the 1991 Session Laws is
17 repealed.

18 **SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.