

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1109

Introduced by

Representative Wald

1 A BILL for an Act to create and enact a new subsection to section 23-37-18 of the North Dakota
2 Century Code, relating to reimbursement for petroleum releases; and to amend and reenact
3 section 23-37-02 of the North Dakota Century Code, relating to petroleum tank release
4 compensation fund definitions.

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

6 **SECTION 1. AMENDMENT.** Section 23-37-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23-37-02. (Effective through July 31, 2011) Definitions.** As used in this chapter,
9 unless the context otherwise requires:

- 10 1. "Actually incurred" means, in the case of corrective action expenditures, that the
11 owner, the operator, the landowner, an insurer, or a contractor hired by the owner,
12 operator, or the landlord has expended time and materials and that only that
13 person is receiving reimbursement from the fund.
- 14 2. "Administrator" means the manager of the state fire and tornado fund.
- 15 3. "Board" means the petroleum release compensation board.
- 16 4. "Commissioner" means the insurance commissioner.
- 17 5. "Corrective action" means an action required by the department to minimize,
18 contain, eliminate, remediate, mitigate, or clean up a release, including any
19 remedial emergency measures. The term does not include the repair or
20 replacement of equipment or preconstructed property.
- 21 6. "Dealer" means any person licensed by the tax commissioner to sell motor vehicle
22 fuel or special fuels within the state.
- 23 7. "Department" means the state department of health.
- 24 8. "Fund" means the petroleum release compensation fund.

- 1 9. "Operator" means any person in control of, or having responsibility for, the daily
2 operation of a tank under this chapter.
- 3 10. "Owner" means any person who holds title to, controls, or possesses an interest in
4 the tank before the discontinuation of its use.
- 5 11. "Person" means an individual, trust, firm, joint stock company, federal agency,
6 corporation, state, municipality, commission, political subdivision of a state, or any
7 interstate body. The term also includes a consortium, a joint venture, a commercial
8 entity, and the United States government.
- 9 12. "Petroleum" means any of the following:
- 10 a. Gasoline and petroleum products as defined in chapter 19-10.
- 11 b. Constituents of gasoline and fuel oil under subdivision a.
- 12 c. Oil sludge and oil refuse.
- 13 13. "Portable tank" means a storage tank along with its piping and wiring that is not
14 stationary or affixed, including a tank that is on skids.
- 15 14. "Release" means any unintentional spilling, leaking, emitting, discharging,
16 escaping, leaching, or disposing of petroleum from a tank into the environment
17 whether occurring before or after the effective date of this chapter, but does not
18 include discharges or designed venting allowed under federal or state law or under
19 adopted rules.
- 20 ~~44.~~ 15. "Tank" means any one or a combination of containers, vessels, and enclosures,
21 whether aboveground or underground, including associated piping or
22 appurtenances used to contain an accumulation of petroleum. The term does not
23 include:
- 24 a. Tanks owned by the federal government.
- 25 b. Tanks used for the transportation of petroleum.
- 26 c. A pipeline facility, including gathering lines, regulated under:
- 27 (1) The Natural Gas Pipeline Safety Act of 1968.
- 28 (2) The Hazardous Liquid Pipeline Safety Act of 1979.
- 29 (3) An interstate pipeline facility regulated under state laws comparable to
30 the provisions of law in paragraph 1 or 2.

- d. An underground farm or residential tank with a capacity of one thousand one hundred gallons [4163.94 liters] or less or an aboveground farm or residential tank of any capacity used for storing motor fuel for noncommercial purposes. However, the owner of an aboveground farm or residential tank may, upon application, register the tank and be eligible for reimbursement under this chapter.
- e. A tank used for storing heating oil for consumptive use on the premises where stored.
- f. A surface impoundment, pit, pond, or lagoon.
- g. A flowthrough process tank.
- h. A liquid trap or associated gathering lines directly related to oil or gas production or gathering operations.
- i. A storage tank situated in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor.
- j. A tank used for the storage of propane.
- k. A tank used to fuel rail locomotives or surface coal mining equipment.
- l. An aboveground tank used to feed diesel fuel generators. Upon application, the owner or operator of an aboveground tank used to feed diesel fuel generators may register the tank and is eligible for reimbursement under this chapter.
- m. A portable tank.
- n. A tank with a capacity under one thousand three hundred hundred twenty gallons [4996.728 liters] used to store lubricating oil.

~~45.~~ 16. "Third party" means a person who is damaged by the act of a registered owner, operator, or dealer requiring corrective action or a person who suffers bodily injury or property damage caused by a petroleum release.

SECTION 2. A new subsection to section 23-37-18 of the North Dakota Century Code is created and enacted as follows:

An owner or operator that has not paid the annual registration fee for a tank as required by section 23-13-17 at the time a release from the tank is discovered and

- 1 has not registered any other tank at the same location may not receive
- 2 reimbursement from the fund under this section.