

HOUSE BILL No. 5301

October 22, 1997, Introduced by Reps. Alley, Middaugh, Bodem, LaForge, Kilpatrick, Mans, Gagliardi, Griffin, Murphy, Anthony, McNutt, Law, Harder, Cherry, Bogardus, Brewer, Palamara, Callahan, LeTarte, Llewellyn, Rhead, Jellema, Wetters, DeHart, Varga, Green, McManus, Richner, Basham, Gernaat, Sikkema, Dobronski, Prusi, Galloway, Agee, Schermesser, Baird and Perricone and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 21507 (MCL 324.21507), as amended by 1996 PA 181, and by adding section 21308b and part 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21308B. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
2 PART, FOLLOWING COMPLETION OF INITIAL RESPONSE ACTIONS UNDER SEC-
3 TION 21307 AND SUBMITTAL OF AN INITIAL ASSESSMENT REPORT UNDER
4 SECTION 21308A, THE DEPARTMENT SHALL NOT REQUIRE AN ELIGIBLE PAR-
5 TICIPANT UNDER PART 216 TO PERFORM FURTHER CORRECTIVE ACTIONS OR
6 SUBMIT ANY ADDITIONAL REPORTS UNDER THIS PART.

7 Sec. 21507. (1) The emergency response fund is created.

1 (2) The state treasurer shall direct the investment of the
2 emergency response fund. Interest and earnings of the emergency
3 response fund shall remain in the emergency response fund.

4 (3) Money in the emergency response fund at the close of the
5 fiscal year shall remain in the emergency response fund and shall
6 not lapse to the general fund.

7 (4) Money in the emergency response fund shall not exceed
8 \$3,000,000.00.

9 (5) Money in the emergency response fund shall be expended
10 by the department ~~to~~ FOR THE FOLLOWING PURPOSES AND IN THE FOL-
11 LOWING PRIORITY ORDER:

12 (A) TO undertake corrective actions ~~to address releases~~
13 ~~from petroleum underground storage tank systems pursuant to~~
14 ~~part 213~~ AT SITES POSING AN IMMINENT RISK TO THE PUBLIC HEALTH,
15 SAFETY, OR WELFARE, OR THE ENVIRONMENT.

16 (B) ~~(6) Not more than \$3,000,000.00 shall be expended from~~
17 ~~the emergency response fund in any year.~~ TO CONTRACT FOR THE
18 PERFORMANCE OF CORRECTIVE ACTIONS AT SITES OF ELIGIBLE PARTICI-
19 PANTS PURSUANT TO PART 216.

20 (6) ~~(7)~~ If money in the emergency response fund is
21 expended under subsection ~~(5)~~ (5)(A) AT SITES THAT ARE NOT
22 OWNED OR OPERATED BY AN ELIGIBLE PARTICIPANT AS DEFINED IN PART
23 216, the person or persons responsible for the corrective action
24 shall be liable to the state for all such expenditures.

25 PART 216 CONTRACTING ASSISTANCE FOR UNDERGROUND STORAGE TANK

CLEANUPS

1

2 SEC. 21601. AS USED IN THIS PART:

3 (A) "CORRECTIVE ACTION", "OPERATOR", "OWNER", "RELEASE",
4 "SITE", AND "UNDERGROUND STORAGE TANK SYSTEM" HAVE THE MEANINGS
5 ASCRIBED TO THOSE TERMS IN PART 213.

6 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
7 QUALITY.

8 (C) "ELIGIBLE PARTICIPANT" MEANS A PERSON WHO MEETS THE
9 REQUIREMENTS OF SECTION 21603(1)(A) TO (F).

10 SEC. 21602. (1) THE DEPARTMENT SHALL ESTABLISH A CONTRACT-
11 ING ASSISTANCE PROGRAM TO ASSIST OWNERS AND OPERATORS IN CON-
12 TRACTING FOR PRELIMINARY ASSESSMENT AND RESPONSE ACTIVITIES.
13 PURSUANT TO PROCEDURES DESCRIBED IN THE MANAGEMENT AND BUDGET
14 ACT, 1984 PA 431, MCL 18.1101 TO 18.1594, THE DEPARTMENT SHALL
15 PREPARE A SOLICITATION FOR BIDS FOR THE PERFORMANCE OF PRELIMI-
16 NARY ASSESSMENT AND RESPONSE ACTIVITIES AT LOCATIONS OF UNDER-
17 GROUND STORAGE TANK SYSTEMS WITHIN REGIONS AS IDENTIFIED BY THE
18 DEPARTMENT. THE BID MAY PROVIDE FOR DIFFERENT AMOUNTS BASED ON
19 THE NUMBER OF UNDERGROUND STORAGE TANKS AT THE LOCATION. THE
20 DEPARTMENT SHALL IDENTIFY 6 REGIONS WITHIN THE STATE FOR PURPOSES
21 OF THE CONTRACTING ASSISTANCE PROGRAM UNDER THIS SECTION. ONLY A
22 PERSON WHO IS ON THE LIST OF QUALIFIED UNDERGROUND STORAGE TANK
23 CONSULTANTS PREPARED UNDER SECTION 21542 IS ELIGIBLE TO SUBMIT A
24 BID IN RESPONSE TO THE SOLICITATION FOR BIDS PREPARED UNDER THIS
25 SECTION.

26 (2) THE DEPARTMENT SHALL SELECT A BID USING THE PROCEDURES
27 AND CRITERIA DESCRIBED IN THE MANAGEMENT AND BUDGET ACT, 1984 PA

1 431, MCL 18.1101 TO 18.1594. THE BID SELECTED ESTABLISHES THE
2 BID PRICE FOR PERFORMANCE OF PRELIMINARY ASSESSMENT AND RESPONSE
3 ACTIVITIES IN THAT REGION.

4 (3) FOLLOWING SELECTION OF A BID, ANY CONSULTANT WHO SUBMIT-
5 TED A BID MAY ALSO PERFORM THE PRELIMINARY ASSESSMENT AND
6 RESPONSE ACTIVITIES FOR THE BID PRICE. A CONSULTANT WHO WISHES
7 TO BE PLACED ON A LIST OF CONSULTANTS WITHIN THE REGION WHO HAVE
8 AGREED TO CONDUCT THE PRELIMINARY ASSESSMENT AND RESPONSE ACTIVI-
9 TIES UNDER THIS SECTION FOR THE BID PRICE SHALL NOTIFY THE
10 DEPARTMENT IN WRITING, WITHIN 30 DAYS AFTER SELECTION OF THE BID,
11 REQUESTING TO BE PLACED ON THE LIST. A CONSULTANT WHO IS ON THE
12 LIST OF CONSULTANTS WITHIN THAT REGION SHALL NOT REFUSE TO ENTER
13 INTO A CONTRACT WITH AN OWNER OR OPERATOR UNDER THIS SECTION
14 UNLESS THE CONSULTANT IS UNABLE TO CONDUCT THE ACTIVITIES WITHIN
15 A REASONABLE TIME PERIOD.

16 (4) THE DEPARTMENT SHALL NOTIFY ALL OWNERS AND OPERATORS IN
17 EACH REGION OF THE LIST OF CONSULTANTS WHO HAVE AGREED TO PERFORM
18 THE PRELIMINARY ASSESSMENT AND RESPONSE ACTIVITIES FOR THE BID
19 PRICE.

20 (5) AN OWNER OR OPERATOR WHO WISHES TO PARTICIPATE IN THE
21 CONTRACTING ASSISTANCE PROGRAM UNDER THIS PART SHALL CONTRACT,
22 FOR THE BID PRICE, WITH A CONSULTANT WHO IS ON THE LIST OF CON-
23 SULTANTS FOR THAT REGION PROVIDED BY THE DEPARTMENT. WITHIN 30
24 DAYS OF CONTRACTING WITH A CONSULTANT UNDER THIS SECTION, THE
25 OWNER OR OPERATOR SHALL PROVIDE THE DEPARTMENT WITH EVIDENCE OF
26 THE CONTRACT.

1 (6) AS USED IN THIS SECTION, "PRELIMINARY ASSESSMENT AND
2 RESPONSE ACTIVITIES" MEANS REMOVAL OF THE UNDERGROUND STORAGE
3 TANK SYSTEM AT A LOCATION, CONDUCTING INITIAL RESPONSE ACTIONS
4 UNDER SECTION 21307, AND CONDUCTING SITE CHARACTERIZATION AND
5 PREPARING AN INITIAL ASSESSMENT REPORT UNDER SECTION 21308A.

6 SEC. 21603. (1) THE DEPARTMENT SHALL ESTABLISH A CORRECTIVE
7 ACTION ASSISTANCE PROGRAM FOR OWNERS AND OPERATORS. AN OWNER OR
8 OPERATOR IS ELIGIBLE TO PARTICIPATE IN THIS PROGRAM IF HE OR SHE
9 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

10 (A) THE OWNER OR OPERATOR SATISFIES THE REQUIREMENTS OF SEC-
11 TION 21510(1)(A), (B), (C), (D), AND (F), (2), AND (4).

12 (B) THE OWNER OR OPERATOR PARTICIPATED IN THE CONTRACTING
13 ASSISTANCE PROGRAM UNDER SECTION 21602 OR HAS COMPLETED AN INI-
14 TIAL ASSESSMENT REPORT UNDER SECTION 21308A.

15 (C) THE UNDERGROUND STORAGE TANK SYSTEM FOR WHICH ASSISTANCE
16 IS REQUESTED WAS REGISTERED UNDER PART 211 ON OR BEFORE JANUARY
17 1, 1993 AND HAS BEEN REGISTERED SINCE JANUARY 1, 1993.

18 (D) THE OWNER OR OPERATOR SUBMITS EVIDENCE OF HIS OR HER
19 ABILITY TO PAY THE COPAY AMOUNT PROVIDED IN SECTION 21604.

20 (E) THE OWNER OR OPERATOR SUBMITS A NOTIFICATION OF ELIGI-
21 BILITY FORM TO THE DEPARTMENT DOCUMENTING HIS OR HER COMPLIANCE
22 WITH THIS SECTION.

23 (F) THE OWNER'S OR OPERATOR'S ELIGIBILITY HAS NOT BEEN DIS-
24 CONTINUED PURSUANT TO SECTION 21604.

25 (2) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE A 1-PAGE
26 NOTIFICATION OF ELIGIBILITY FORM FOR USE IN MEETING THE
27 REQUIREMENT OF SUBSECTION (1)(E).

1 (3) AN ELIGIBLE PARTICIPANT MAY WITHDRAW FROM PARTICIPATION
2 IN THE CORRECTIVE ACTION ASSISTANCE PROGRAM UNDER THIS SECTION BY
3 NOTIFYING THE DEPARTMENT IN WRITING.

4 SEC. 21604. AN ELIGIBLE PARTICIPANT IS RESPONSIBLE FOR A
5 COPAY AMOUNT OF \$25,000.00 OR \$8,500.00 PER UNDERGROUND STORAGE
6 TANK, WHICHEVER IS GREATER, MINUS THE BID PRICE FOR THE REGION IN
7 WHICH THE UNDERGROUND STORAGE TANK SYSTEM IS LOCATED AS PROVIDED
8 FOR IN SECTION 21602. ADDITIONALLY, AFTER THE AMOUNT IS PAID,
9 THE OWNER OR OPERATOR WHO OWNS 1 TO 20 UNDERGROUND STORAGE TANKS,
10 REGARDLESS OF THEIR LOCATION, SHALL PAY A COPAY OF 5% OF THE
11 COSTS OF CORRECTIVE ACTIONS PERFORMED AT THE SITE. THE OWNER OR
12 OPERATOR OF MORE THAN 20 UNDERGROUND STORAGE TANKS SHALL PAY A
13 COPAY OF 20% OF THE COSTS OF CORRECTIVE ACTIONS PERFORMED AT THE
14 SITE. THE DEPARTMENT SHALL BILL OWNERS AND OPERATORS ON A
15 MONTHLY BASIS. IF AN OWNER OR OPERATOR FAILS TO PAY A COPAY
16 AMOUNT WITHIN 30 DAYS AFTER THE DEPARTMENT MAILED THE BILL, THE
17 DEPARTMENT MAY DISCONTINUE THE OWNER'S OR OPERATOR'S ELIGIBILITY
18 UNDER THIS PART.

19 SEC. 21605. (1) WITH MONEY AVAILABLE IN THE EMERGENCY
20 RESPONSE FUND CREATED IN SECTION 21507, THE DEPARTMENT SHALL CON-
21 TRACT FOR THE PERFORMANCE OF CORRECTIVE ACTIONS AT SITES OWNED OR
22 OPERATED BY ELIGIBLE PARTICIPANTS. THE DEPARTMENT SHALL CONTRACT
23 FOR THE PERFORMANCE OF CORRECTIVE ACTIONS AT SITES BASED UPON THE
24 CLASSIFICATION OF THE SITE UNDER SECTION 21314A. THE DEPARTMENT
25 SHALL ENTER INTO CONTRACTS UNDER THIS SECTION IN ACCORDANCE WITH
26 THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1101 TO

1 18.1594. THE DEPARTMENT MAY CONTRACT FOR THE PERFORMANCE OF
2 CORRECTIVE ACTIONS AT 1 OR MORE SITES.

3 (2) THE EXPENDITURE OF MONEY TO PERFORM CORRECTIVE ACTIONS
4 UNDER THIS SECTION DOES NOT AFFECT THE LIABILITY OF THE OWNER OR
5 OPERATOR. HOWEVER, THE OWNER IS NOT RESPONSIBLE FOR THE REPAY-
6 MENT OF MONEY EXPENDED ON CONTRACTS ISSUED UNDER THIS SECTION.

7 SEC. 21606. THE DEPARTMENT SHALL NOT CONTRACT FOR THE PER-
8 FORMANCE OF ENVIRONMENTAL ASSESSMENTS OR CORRECTIVE ACTIONS FOR
9 RELEASES THAT OCCUR AFTER DECEMBER 22, 1998.