

SUBSTITUTE FOR
HOUSE BILL NO. 6047

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 21553, 21554, 21555,
21556, and 21557.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 21553. THE DEPARTMENT SHALL ESTABLISH A REFINED PETROLEUM
2 PRODUCT CLEANUP INITIAL PROGRAM TO CONDUCT CORRECTIVE ACTIONS
3 ASSOCIATED WITH RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK
4 SYSTEMS.

5 SEC. 21554. THE DEPARTMENT SHALL ESTABLISH A TEMPORARY
6 REIMBURSEMENT PROGRAM TO PROMOTE PROGRESS TOWARD SITE CLOSURE OF
7 RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS BY
8 PROVIDING FINANCIAL INCENTIVES FOR ELIGIBLE PERSONS TO CONDUCT
9 CORRECTIVE ACTIONS FOR THOSE RELEASES.

1 SEC. 21555. THE DEPARTMENT SHALL ADMINISTER THE TEMPORARY
2 REIMBURSEMENT PROGRAM AND PROCESS PRECERTIFICATION APPLICATIONS AND
3 SUBSEQUENT WORK INVOICES SUBMITTED BY ELIGIBLE PERSONS IN
4 ACCORDANCE WITH THIS PART. BEGINNING ON THE EFFECTIVE DATE OF THE
5 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL
6 COMMENCE IMPLEMENTATION OF THE TEMPORARY REIMBURSEMENT PROGRAM AS
7 PROVIDED IN SECTIONS 21556 AND 21557. THE INITIATION DATE OF THE
8 FIRST ROUND PRECERTIFICATION APPLICATION PERIOD SHALL OCCUR NOT
9 LATER THAN 120 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
10 THAT ADDED THIS SECTION. THE DEPARTMENT SHALL PROVIDE NOTICE OF THE
11 INITIATION DATE TO APPLICABLE TRADE ASSOCIATIONS AND SHALL PROVIDE
12 NOTICE THROUGH AN ELECTRONIC DISTRIBUTION LIST TO INTERESTED
13 PERSONS AND THE DEPARTMENT'S WEBSITE. NOT LATER THAN 210 DAYS AFTER
14 THE INITIATION DATE OF THE FIRST ROUND, THE DEPARTMENT SHALL
15 DETERMINE WHETHER SUFFICIENT FUNDING IS AVAILABLE TO IMPLEMENT A
16 SECOND ROUND TEMPORARY REIMBURSEMENT PROGRAM PURSUANT TO SECTION
17 21557. IF THE DEPARTMENT DETERMINES THAT SUFFICIENT FUNDS ARE
18 AVAILABLE, THE DEPARTMENT SHALL PROVIDE NOTICE OF THE INITIATION
19 DATE OF THE SECOND ROUND PRECERTIFICATION APPLICATION PERIOD IN THE
20 SAME MANNER AS THE FIRST ROUND NOTIFICATION PROCESS. THE INITIATION
21 DATE OF THE SECOND ROUND PRECERTIFICATION APPLICATION PERIOD SHALL
22 OCCUR NOT LATER THAN 60 DAYS AFTER THE DEPARTMENT DETERMINES
23 FUNDING IS AVAILABLE FOR THE SECOND ROUND OF THE TEMPORARY
24 REIMBURSEMENT PROGRAM.

25 SEC. 21556. (1) TO BE CONSIDERED FOR ELIGIBILITY FOR
26 REIMBURSEMENT UNDER THE FIRST ROUND OF THE TEMPORARY REIMBURSEMENT
27 PROGRAM, A PERSON SHALL SUBMIT TO THE DEPARTMENT A COMPLETED FIRST

1 ROUND PRECERTIFICATION APPLICATION ON A FORM PROVIDED BY THE
2 DEPARTMENT. A PERSON MAY SUBMIT MORE THAN 1 FIRST ROUND
3 PRECERTIFICATION APPLICATION IF HE OR SHE POSSESSES MORE THAN 1
4 APPROVED CLAIM FOR RELEASES THAT MEET THE ELIGIBILITY REQUIREMENTS
5 IN SUBSECTION (3)(A) TO (D).

6 (2) TO BE CONSIDERED FOR APPROVAL, FIRST ROUND
7 PRECERTIFICATION APPLICATIONS SHALL BE RECEIVED BY THE DEPARTMENT
8 AT OR BEFORE 5 P.M. ON THE ONE HUNDRED EIGHTIETH DAY FOLLOWING THE
9 DEPARTMENT'S INITIATION DATE OF THE APPLICATION PERIOD.

10 (3) IN ORDER FOR A PERSON TO BE ELIGIBLE FOR REIMBURSEMENT
11 UNDER THE FIRST ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE
12 COMPLETED FIRST ROUND PRECERTIFICATION APPLICATION SHALL
13 DEMONSTRATE ALL OF THE FOLLOWING:

14 (A) THAT THE PERSON WAS THE OWNER OR OPERATOR WHO SUBMITTED
15 AND HAD AN APPROVED CLAIM OR THAT THE PERSON RECEIVED A VALID
16 ASSIGNMENT OF AN APPROVED CLAIM IN ACCORDANCE WITH SECTION 21516.

17 (B) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
18 HAS NOT BEEN CLOSED PURSUANT TO PART 213.

19 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
20 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE,
21 BASED ON THE MOST RECENTLY SUBMITTED DATA OR REPORTS PRIOR TO MAY
22 9, 2005, OR AS OTHERWISE DETERMINED BY THE DEPARTMENT PRIOR TO MAY
23 9, 2005.

24 (D) FOR UNDERGROUND STORAGE TANK SYSTEMS THAT ARE OPERATING AT
25 THE LOCATION FROM WHICH THE RELEASE OCCURRED, THAT THE OWNER OR
26 OPERATOR, IF HE OR SHE IS THE APPLICANT, IS CURRENTLY IN COMPLIANCE
27 WITH THE REGISTRATION AND FEE REQUIREMENTS OF PART 211.

1 (4) ALL APPLICATIONS FOR THE TEMPORARY REIMBURSEMENT PROGRAM
2 SHALL BE CONSIDERED ON A FIRST-COME, FIRST-SERVED BASIS. IF THE
3 FIRST ROUND PRECERTIFICATION APPLICATION RECEIVED BY THE DEPARTMENT
4 SUCCESSFULLY DEMONSTRATES ELIGIBILITY IN ACCORDANCE WITH
5 SUBSECTIONS (2) AND (3), THE DEPARTMENT SHALL APPROVE THE FIRST
6 ROUND PRECERTIFICATION APPLICATION. NOT MORE THAN 900
7 PRECERTIFICATION APPLICATIONS SHALL BE APPROVED BY THE DEPARTMENT.

8 (5) AN ELIGIBLE PERSON SHALL HAVE 540 DAYS AFTER THE DATE OF
9 APPROVAL OF THE PRECERTIFICATION APPLICATION TO PERFORM CORRECTIVE
10 ACTIONS PURSUANT TO PART 213 AT THE SITE OF RELEASE IN ACCORDANCE
11 WITH SECTION 21558.

12 (6) ONLY CORRECTIVE ACTION COSTS INCURRED AFTER THE DATE OF
13 APPROVAL OF THE PRECERTIFICATION APPLICATION AND UP TO THE FIVE
14 HUNDRED FORTIETH DAY FOLLOWING PRECERTIFICATION APPLICATION
15 APPROVAL SHALL BE CONSIDERED FOR REIMBURSEMENT BY THE DEPARTMENT.
16 CORRECTIVE ACTION COSTS INCURRED AFTER THE FIVE HUNDRED FORTIETH
17 DAY ARE NOT ELIGIBLE FOR REIMBURSEMENT.

18 (7) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 OR SUCH
19 ADDITIONAL AMOUNT AS MAY BE MADE AVAILABLE PURSUANT TO SECTION
20 21557(8), FOR APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED
21 PRECERTIFICATION APPLICATION.

22 (8) AN ELIGIBLE PERSON SHALL SUBMIT ALL WORK INVOICES FOR
23 WHICH REIMBURSEMENT IS BEING SOUGHT TO THE DEPARTMENT WITHIN 600
24 DAYS FOLLOWING THE PRECERTIFICATION APPLICATION APPROVAL DATE. AN
25 ELIGIBLE PERSON SHALL NOT SUBMIT A REQUEST FOR REIMBURSEMENT THAT
26 TOTALS LESS THAN \$5,000.00 FOR THE COSTS OF CORRECTIVE ACTION,
27 EXCEPT FOR THE LAST REIMBURSEMENT REQUEST.

1 (9) ELIGIBLE PERSONS SHALL RECEIVE REIMBURSEMENT OF 80% OF THE
2 AMOUNT OF EACH APPROVED WORK INVOICE UNTIL THE MAXIMUM
3 REIMBURSEMENT AMOUNT IS REACHED. THE REMAINING 20% SHALL BE
4 CONSIDERED THE CO-PAY AMOUNT. PROOF OF PAYMENT OF THE CO-PAY AMOUNT
5 IS REQUIRED WITH EACH WORK INVOICE SUBMITTAL.

6 (10) CORRECTIVE ACTIONS FOR WHICH REIMBURSEMENT IS SOUGHT
7 SHALL CONFORM TO THE REQUIREMENTS OF PART 213 AND SECTION 21558.
8 REQUESTS FOR REIMBURSEMENT ARE SUBJECT TO SECTIONS 21559 TO 21561.

9 (11) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT IN THE FIRST ROUND
10 THAT IS NOT EXPENDED, BUT SUBJECT TO APPEAL PURSUANT TO SECTION
11 21561, SHALL BE HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A
12 FINAL REIMBURSEMENT DETERMINATION IS MADE.

13 SEC. 21557. (1) IF THE DEPARTMENT DETERMINES PURSUANT TO
14 SECTION 21555 THAT SUFFICIENT FUNDS ARE AVAILABLE FOR A SECOND
15 ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE SECOND ROUND
16 SHALL BE IMPLEMENTED IN ACCORDANCE WITH THIS SECTION.

17 (2) TO BE CONSIDERED FOR ELIGIBILITY FOR REIMBURSEMENT UNDER
18 THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, A PERSON
19 SHALL SUBMIT TO THE DEPARTMENT A COMPLETED SECOND ROUND
20 PRECERTIFICATION APPLICATION ON A FORM PROVIDED BY THE DEPARTMENT.
21 A PERSON MAY SUBMIT MORE THAN 1 SECOND ROUND PRECERTIFICATION
22 APPLICATION IF HE OR SHE POSSESSES MORE THAN 1 APPROVED CLAIM FOR
23 RELEASES THAT MEET THE ELIGIBILITY REQUIREMENTS IN THIS SECTION.

24 (3) TO BE CONSIDERED FOR APPROVAL, SECOND ROUND
25 PRECERTIFICATION APPLICATIONS SHALL BE RECEIVED BY THE DEPARTMENT
26 AT OR BEFORE 5 P.M. ON THE THIRTIETH DAY FOLLOWING THE INITIATION
27 DATE OF THE SECOND ROUND APPLICATION PERIOD.

1 (4) IN ORDER FOR A PERSON TO BE ELIGIBLE FOR REIMBURSEMENT
2 UNDER THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM, THE
3 COMPLETED SECOND ROUND PRECERTIFICATION APPLICATION SHALL
4 DEMONSTRATE ALL OF THE FOLLOWING:

5 (A) THAT THE PERSON WAS THE OWNER OR OPERATOR WHO SUBMITTED
6 AND HAD AN APPROVED CLAIM OR THAT THE PERSON RECEIVED A VALID
7 ASSIGNMENT OF THE APPROVED CLAIM IN ACCORDANCE WITH SECTION 21516.

8 (B) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
9 HAS NOT BEEN CLOSED PURSUANT TO PART 213.

10 (C) THAT THE RELEASE FOR WHICH THE APPROVED CLAIM WAS OBTAINED
11 CAUSED THE SITE TO BE CLASSIFIED AS A CLASS 1 OR CLASS 2 SITE,
12 BASED ON THE MOST RECENTLY SUBMITTED DATA OR REPORTS, OR AS
13 OTHERWISE DETERMINED BY THE DEPARTMENT.

14 (D) FOR UNDERGROUND STORAGE TANK SYSTEMS THAT ARE OPERATING AT
15 THE LOCATION FROM WHICH THE RELEASE OCCURRED, THAT THE OWNER OR
16 OPERATOR, IF HE OR SHE IS THE APPLICANT, IS CURRENTLY IN COMPLIANCE
17 WITH THE REGISTRATION AND FEE REQUIREMENTS OF PART 211.

18 (5) AN ELIGIBLE PERSON MAY RECEIVE UP TO \$50,000.00 FOR
19 APPROVED CORRECTIVE ACTION COSTS FOR EACH APPROVED SECOND ROUND
20 PRECERTIFICATION APPLICATION OR SUCH ADDITIONAL AMOUNT AS MAY BE
21 MADE AVAILABLE PURSUANT TO SUBSECTION (8). IF THE NUMBER OF
22 PRECERTIFICATION APPLICATIONS EXCEEDS AVAILABLE TEMPORARY
23 REIMBURSEMENT PROGRAM FUNDING FOR THE SECOND ROUND, THE REMAINING
24 TEMPORARY REIMBURSEMENT PROGRAM FUNDS SHALL BE ALLOCATED AT
25 \$50,000.00 PER LOCATION ON A FIRST-COME, FIRST-SERVED BASIS EXCEPT
26 AS FOLLOWS:

27 (A) FIRST PRIORITY SHALL BE GIVEN TO PERSONS THAT RECEIVED NO

1 PRECERTIFICATION APPLICATION APPROVALS IN THE FIRST ROUND AND THAT
2 MEET THE REQUIREMENTS OF SUBSECTIONS (2) TO (4).

3 (B) IF TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAIN AFTER
4 ALLOCATING FUNDS UNDER SUBDIVISION (A), SECOND PRIORITY SHALL BE
5 GIVEN TO PERSONS THAT RECEIVED PRECERTIFICATION APPLICATION
6 APPROVAL IN THE FIRST ROUND AND THAT SUBMIT A SECOND ROUND
7 PRECERTIFICATION APPLICATION TO THE DEPARTMENT FOR A DIFFERENT
8 LOCATION THAT MEETS THE REQUIREMENTS OF SUBSECTIONS (2) TO (4).

9 (6) IF THE SECOND ROUND PRECERTIFICATION APPLICATION
10 SUCCESSFULLY DEMONSTRATES ELIGIBILITY IN ACCORDANCE WITH THIS
11 SECTION, THE DEPARTMENT SHALL APPROVE THE SECOND ROUND
12 PRECERTIFICATION APPLICATION IN ACCORDANCE WITH SUBSECTION (5), TO
13 THE EXTENT THAT FUNDING IS AVAILABLE.

14 (7) THE SECOND ROUND OF THE TEMPORARY REIMBURSEMENT PROGRAM IS
15 SUBJECT TO THE REQUIREMENTS OF SECTION 21556(5) TO (10), INCLUDING
16 THE CO-PAY REQUIREMENTS.

17 (8) IF TEMPORARY REIMBURSEMENT PROGRAM FUNDS REMAIN AFTER ALL
18 ALLOCATIONS ARE MADE, THEN, UPON APPROPRIATION, THE REMAINING MONEY
19 SHALL BE ALLOCATED ON A PRORATED BASIS AMONG APPROVED FIRST ROUND
20 AND SECOND ROUND PRECERTIFICATION APPLICANTS FOR REIMBURSEMENT,
21 SUBJECT TO SECTION 21556(5) TO (10). THE DEPARTMENT SHALL NOTIFY
22 ALL APPROVED FIRST ROUND AND SECOND ROUND APPLICANTS OF THE AMOUNT
23 OF ADDITIONAL REIMBURSEMENT AVAILABLE WITHIN 14 DAYS OF THE
24 EFFECTIVE DATE OF THE APPROPRIATION.

25 (9) ANY ALLOCATED AMOUNT FOR REIMBURSEMENT THAT IS NOT
26 EXPENDED BUT SUBJECT TO APPEAL, PURSUANT TO SECTION 21561, SHALL BE
27 HELD IN RESERVE UNTIL THE APPEAL IS EXHAUSTED AND A FINAL

1 **REIMBURSEMENT DETERMINATION IS MADE.**

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 93rd Legislature are
4 enacted into law:

5 (a) House Bill No. 6202.

6 (b) Senate Bill No. 1260.