
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 837 Session of
2001

INTRODUCED BY CONTI, MUSTO, TOMLINSON, GREENLEAF, WAGNER,
TARTAGLIONE, STACK AND KUKOVICH, MAY 2, 2001

SENATE AMENDMENTS TO HOUSE AMENDMENTS, DECEMBER 11, 2001

AN ACT

1 Amending the act of July 6, 1989 (P.L.169, No.32), entitled, as
2 amended, "An act providing for the regulation of storage
3 tanks and tank facilities; imposing additional powers and
4 duties on the Department of Environmental Protection and the
5 Environmental Quality Board; and making an appropriation,"
6 further providing for payment of certain claims from the
7 Underground Storage Tank Indemnification Fund; ~~and providing~~ <—
8 ~~for certain notification when there are releases from storage~~
9 ~~tanks.~~ AND FOR UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP <—
10 PROGRAM.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Sections 704(b) and ~~706~~ (B.1) of the act of July <—
14 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill
15 Prevention Act, amended January 30, 1998 (P.L.46, No.13), are
16 amended to read:

17 Section 704. Underground Storage Tank Indemnification Fund.

18 * * *

19 (b) Limit of payments to owners or operators.--

20 (1) Payments to eligible owners or operators shall be
21 limited to the actual costs of corrective action and the

1 amount of an award of damages by a court of competent
2 jurisdiction for bodily injury, property damage or both, not
3 to exceed a total of [\$1,000,000] ~~\$3,000,000~~ \$1,500,000 per ←
4 tank per occurrence.

5 (2) Payments of claims against the fund shall be subject
6 to a deductible as provided in section 705. Payments shall be
7 made only for releases resulting from storage tanks that are
8 located within this Commonwealth.

9 (3) Payments shall not exceed:

10 (i) an annual aggregate of [\$1,000,000] ~~\$3,000,000~~ ←
11 \$1,500,000 for each owner and operator of 100 or less
12 underground storage tanks; or

13 (ii) an annual aggregate of [\$2,000,000] ~~\$4,000,000~~ ←
14 \$3,000,000 for each owner and operator of 101 or more
15 underground storage tanks, up to the total of
16 [\$1,000,000] ~~\$3,000,000~~ \$1,500,000 per tank per ←
17 occurrence or the total eligible costs or damages.

18 ~~(4) Payments shall be made to eligible owners or ←
19 operators without regard for the date of the filing of the
20 claim or the time when payments were first made on the claim
21 to the eligible owner or operator, provided that the claim
22 was made after February 1, 1994.~~

23 (4) ANY PENDING CLAIM WHERE ELIGIBILITY HAS NOT BEEN ←
24 DETERMINED AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL
25 BE ELIGIBLE FOR THE INCREASED PAYMENT UNDER THIS SUBSECTION.

26 (B.1) LIMIT OF PAYMENTS TO CERTIFIED TANK INSTALLERS.--

27 (1) PAYMENTS TO CERTIFIED TANK INSTALLERS SHALL BE
28 LIMITED TO THE ACTUAL COSTS OF CORRECTIVE ACTION AND THE
29 AMOUNT OF AN AWARD OF DAMAGES BY A COURT OF COMPETENT
30 JURISDICTION FOR BODILY INJURY, PROPERTY DAMAGE OR BOTH, NOT

1 TO EXCEED A TOTAL OF [\$1,000,000] \$1,500,000 PER OCCURRENCE.
2 CORRECTIVE ACTION UNDER THIS SUBSECTION SHALL MEAN RELEASES
3 CAUSED BY IMPROPER OR FAULTY INSTALLATIONS, MODIFICATIONS AND
4 REMOVAL OF UNDERGROUND STORAGE TANKS.

5 (2) PAYMENTS OF CLAIMS AGAINST THE PROGRAM SHALL BE
6 SUBJECT TO A DEDUCTIBLE AS PROVIDED IN SECTION 705(C)(4).
7 PAYMENTS SHALL BE MADE ONLY FOR RELEASES RESULTING FROM
8 UNDERGROUND STORAGE TANKS LOCATED IN THIS COMMONWEALTH.

9 (3) PAYMENTS SHALL NOT EXCEED:

10 (I) AN ANNUAL AGGREGATE OF [\$1,000,000] \$1,500,000
11 FOR CERTIFIED TANK INSTALLERS WHO PERFORM 100 OR FEWER
12 INSTALLATIONS OR MAJOR MODIFICATIONS; OR

13 (II) AN ANNUAL AGGREGATE OF [\$2,000,000] \$3,000,000
14 FOR CERTIFIED TANK INSTALLERS WHO PERFORM MORE THAN 100
15 INSTALLATIONS OR MAJOR MODIFICATIONS.

16 (4) ANY PENDING CLAIM WHERE ELIGIBILITY HAS NOT BEEN
17 DETERMINED AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL
18 BE ELIGIBLE FOR THE INCREASED PAYMENT UNDER THIS SUBSECTION.

19 * * *

20 ~~Section 706. Eligibility of claimants.~~ <—

21 ~~(a) General rule. In order to receive a payment from the~~
22 ~~Underground Storage Tank Indemnification Fund, a claimant shall~~
23 ~~meet the following eligibility requirements:~~

24 ~~(1) The claimant is the owner, operator or certified~~
25 ~~tank installer of the tank which is the subject of the claim.~~

26 ~~(2) The current fee required under section 705 has been~~
27 ~~paid.~~

28 ~~(3) The tank has been registered in accordance with the~~
29 ~~requirements of section 503.~~

30 ~~(4) The owner, operator or certified tank installer has~~

1 ~~obtained the appropriate permit or certification as required~~
2 ~~under sections 108, 501 and 504.~~

3 ~~(5) The claimant demonstrates to the satisfaction of the~~
4 ~~board that the release that is the subject of the claim~~
5 ~~occurred after the date established by the board for payment~~
6 ~~of the fee required by section 705(d).~~

7 ~~(6) Additional eligibility requirements which the board~~
8 ~~may adopt by regulation.~~

9 ~~(b) Previous claims.~~

10 ~~(1) The owner, operator or certified tank installer~~
11 ~~shall remain eligible for payment from the fund, up to a~~
12 ~~total of \$3,000,000 per tank per occurrence, even where the~~
13 ~~fund initially paid all or part of any amount claimed prior~~
14 ~~to the effective date of this subsection, as a per tank per~~
15 ~~occurrence amount, provided that the full amount of the claim~~
16 ~~has not been paid as of June 1, 2001.~~

17 ~~(2) This subsection shall not apply to claims settled or~~
18 ~~closed prior to June 1, 2001.~~

19 Section 2. ~~Section 904 of the act is amended by adding a~~
20 ~~subsection to read:~~

21 ~~Section 904. Notification.~~

22 ~~* * *~~

23 ~~(c) Releases from storage tanks. Unless modified by the~~
24 ~~rules and regulations of the department, the following~~
25 ~~notification requirements apply if a release from a storage tank~~
26 ~~occurs. Upon the occurrence of a release from a storage tank,~~
27 ~~the owner or operator of the storage tank shall immediately~~
28 ~~notify the appropriate regional office of the department. The~~
29 ~~owner or operator shall notify the department, as soon as~~
30 ~~practicable, but no later than four hours after the confirmation~~

~~1 of a reportable release. Within 15 days of this notification,
2 the owner or operator shall provide written notice to the
3 department, to the municipality in which the reportable release
4 has occurred, and to each municipality where that release has
5 impacted environmental media or water supplies, buildings or
6 sewer or other utility lines. The written notice shall describe,
7 to the extent the information is available, the regulated
8 substance involved in the release, the quantity of the substance
9 released, when the release occurred, the affected environmental
10 media, where the release occurred and relevant information
11 concerning the effect of the release on public health, impacts
12 to water supplies, buildings or to sewer or other utility lines.
13 The notice shall also include information on remedial actions
14 that are planned, initiated or completed. The owner or operator
15 shall also provide written notice to the department and each
16 impacted municipality of new impacts to environmental media or
17 water supplies, buildings, or sewer or other utility lines
18 discovered after the initial written notice required under this
19 subsection. This written notice shall be made within 15 days of
20 the discovery of the new impact. If the department determines at
21 any time that the release poses an immediate threat to public
22 health and safety, the department and any impacted
23 municipalities may evaluate and implement reasonable procedures
24 to provide the public with appropriate information about the
25 situation which may, at a minimum, include a summary of the
26 details surrounding the release and its impacts in a newspaper
27 of general circulation serving the area in which the impacts are
28 occurring.~~

29 SECTION 2. SECTION 710(B) OF THE ACT, ADDED JANUARY 30, 1998 <—
30 (P.L.46, NO.13), IS AMENDED AND THE SECTION IS AMENDED BY ADDING

1 A SUBSECTION TO READ:

2 SECTION 710. UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP
3 PROGRAM.

4 * * *

5 (B) ALLOCATION.--THE BOARD MAY ALLOCATE UP TO \$5,500,000
6 ANNUALLY FROM THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND
7 FOR THE UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP PROGRAM
8 AS LONG AS THE ALLOCATION DOES NOT IMPEDE THE FUND'S ABILITY TO
9 PAY CLAIMS. ANY AMOUNTS RECOVERED BY THE BOARD AND/OR THE
10 DEPARTMENT OF ENVIRONMENTAL PROTECTION FROM THE COSTS OF
11 CORRECTIVE ACTION INCURRED UNDER THE UNDERGROUND STORAGE TANK
12 ENVIRONMENTAL CLEANUP PROGRAM SHALL BE ADDED TO THIS ALLOCATION
13 FOR THE PURPOSES STATED IN THIS SUBSECTION AND SHALL ANNUALLY
14 LAPSE WITH THIS ALLOCATION.

15 * * *

16 (B.3) CATASTROPHIC RELEASE ALLOCATIONS.--

17 (1) THE BOARD MAY ALLOCATE UP TO \$5,500,000 ANNUALLY
18 FROM THE UNDERGROUND STORAGE TANK INDEMNIFICATION FUND FOR
19 THE UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP PROGRAM TO
20 BE USED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR
21 CORRECTIVE ACTION CAUSED BY A CATASTROPHIC RELEASE PROVIDING
22 THE ALLOCATION DOES NOT IMPEDE THE FUND'S ACTUARIAL SOUNDNESS
23 AND ABILITY TO PAY CLAIMS.

24 (2) FOR THE PURPOSES OF THIS SUBSECTION, A CATASTROPHIC
25 RELEASE IS ONE THAT IMPOSES A THREAT TO PUBLIC HEALTH AND
26 SAFETY AND THE ENVIRONMENT WHERE THE DEPARTMENT DETERMINES
27 THAT THE COSTS OF THE CORRECTIVE ACTION MAY EXCEED TWO TIMES
28 THE LIMITS ESTABLISHED UNDER SECTION 704.

29 * * *

30 Section 3. This act shall take effect immediately.