

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 1195 Session of  
2005

INTRODUCED BY YUDICHAK, GEORGE, THOMAS, SURRA, CALTAGIRONE,  
DeWEESE, BELARDI, BELFANTI, BOYD, CAPPELLI, FRANKEL, GRUCELA,  
MUNDY, PRESTON, REICHLEY, SAINATO, SOLOBAY, WALKO, YOUNGBLOOD  
AND DENLINGER, MARCH 29, 2005

SENATOR WENGER, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 28, 2006

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 DEFINITIONS, for UNDERGROUND STORAGE <—  
7 TANK INDEMNIFICATION FUND, FOR THE UNDERGROUND STORAGE TANK <—  
8 ENVIRONMENTAL CLEANUP PROGRAM AND FOR Underground Storage  
9 Tank Pollution Prevention Program.

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

12 ~~Section 1. Section 711(a) of the act of July 6, 1989~~ <—  
13 ~~(P.L.169, No.32), known as the Storage Tank and Spill Prevention~~  
14 ~~Act, added January 30, 1998 (P.L.46, No.13), is amended to read:~~

15 ~~SECTION 1. SECTION 704(B) AND (B.1) OF THE ACT OF JULY 6,~~ <—  
16 ~~1989 (P.L.169, NO.32), KNOWN AS THE STORAGE TANK AND SPILL~~  
17 ~~PREVENTION ACT, AMENDED DECEMBER 13, 2001 (P.L.900, NO.99), ARE~~  
18 ~~AMENDED TO READ:~~

19 SECTION 1. SECTION 103 OF THE ACT OF JULY 6, 1989 (P.L.169, <—

1 NO.32), KNOWN AS THE STORAGE TANK AND SPILL PREVENTION ACT, IS  
2 AMENDED BY ADDING A DEFINITION TO READ:

3 SECTION 103. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
5 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 \* \* \*

8 "BOARD." THE UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD  
9 ESTABLISHED IN SECTION 703.

10 \* \* \*

11 SECTION 2. SECTION 704(B) AND (B.1) OF THE ACT, AMENDED  
12 DECEMBER 13, 2001 (P.L.900, NO.99), ARE AMENDED TO READ:  
13 SECTION 704. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND.

14 \* \* \*

15 (B) LIMIT OF PAYMENTS TO OWNERS OR OPERATORS.--

16 (1) PAYMENTS TO ELIGIBLE OWNERS OR OPERATORS SHALL BE  
17 LIMITED TO THE ACTUAL COSTS OF CORRECTIVE ACTION AND THE  
18 AMOUNT OF AN AWARD OF DAMAGES BY A COURT OF COMPETENT  
19 JURISDICTION FOR BODILY INJURY, PROPERTY DAMAGE OR BOTH, NOT  
20 TO EXCEED A TOTAL OF \$1,500,000 PER TANK PER OCCURRENCE.

21 (2) PAYMENTS OF CLAIMS AGAINST THE FUND SHALL BE SUBJECT  
22 TO A DEDUCTIBLE AS PROVIDED IN SECTION 705. PAYMENTS SHALL BE  
23 MADE ONLY FOR RELEASES RESULTING FROM STORAGE TANKS THAT ARE  
24 LOCATED WITHIN THIS COMMONWEALTH.

25 (3) PAYMENTS SHALL NOT EXCEED:

26 (I) AN ANNUAL AGGREGATE OF \$1,500,000 FOR EACH OWNER  
27 AND OPERATOR OF 100 OR LESS UNDERGROUND STORAGE TANKS; OR

28 (II) AN ANNUAL AGGREGATE OF \$3,000,000 FOR EACH  
29 OWNER AND OPERATOR OF 101 OR MORE UNDERGROUND STORAGE  
30 TANKS, UP TO THE TOTAL OF \$1,500,000 PER TANK PER

1 OCCURRENCE OR THE TOTAL ELIGIBLE COSTS OR DAMAGES.

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

5 (5) FOR ANY CLAIM UNDER THIS SECTION WHERE ELIGIBILITY  
6 WAS DETERMINED OR PAYMENT WAS MADE PRIOR TO DECEMBER 13,  
7 2001, INVOLVING THE REMEDIATION OF METHYL TERTIARY BUTYL  
8 ETHER, THE BOARD MAY, IN FISCAL YEAR 2006-2007, AWARD AN  
9 ADDITIONAL AMOUNT OF UP TO \$500,000 PER OCCURRENCE TO  
10 PREVIOUSLY APPROVED CLAIMANTS WHO REACHED THE \$1,000,000  
11 PAYMENT LIMIT IN EFFECT PRIOR TO DECEMBER 13, 2001. THE TOTAL  
12 OF ALL AWARDS MADE UNDER THIS PARAGRAPH SHALL NOT EXCEED  
13 \$3,500,000.

14 (6) THE BOARD SHALL PERFORM A STUDY WHICH EVALUATES <—  
15 COSTS ATTRIBUTED TO THE REMEDIATION OF STORAGE TANK SPILLS  
16 CONTAINING METHYL TERTIARY BUTYL ETHER (MTBE) AND THE  
17 POTENTIAL IMPACT TO THE FUND. THIS STUDY SHALL INCLUDE A  
18 COMPARISON OF CLEANUP COSTS OF SITES CONTAINING VARYING  
19 PERCENTAGES OF METHYL TERTIARY BUTYL ETHER (MTBE) FROM 1995  
20 TO 2005, A DISCLOSURE OF PRE-2001 INCIDENTS INVOLVING METHYL  
21 TERTIARY BUTYL ETHER (MTBE) WHICH MAY HAVE SUBSEQUENTLY  
22 EXCEEDED \$1,000,000 AND A DISCLOSURE OF POST-2001 INCIDENTS  
23 INVOLVING METHYL TERTIARY BUTYL ETHER (MTBE) WHICH EXCEEDED  
24 \$1,000,000. THE STUDY SHALL ALSO MAKE RECOMMENDATIONS AS TO  
25 WHETHER FEES, PAYMENT LEVELS OR BOARD POLICY SHOULD BE  
26 ADJUSTED TO MEET POTENTIAL LIABILITY OF CLEANUPS RELATED TO  
27 METHYL TERTIARY BUTYL ETHER (MTBE). THE STUDY SHALL BE  
28 SUBMITTED TO THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE  
29 OF THE SENATE AND THE ENVIRONMENTAL RESOURCES AND ENERGY  
30 COMMITTEE OF THE HOUSE OF REPRESENTATIVES BY MARCH 15, 2007.

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

(1) PAYMENTS TO CERTIFIED TANK INSTALLERS SHALL BE LIMITED TO THE ACTUAL COSTS OF CORRECTIVE ACTION AND THE AMOUNT OF AN AWARD OF DAMAGES BY A COURT OF COMPETENT JURISDICTION FOR BODILY INJURY, PROPERTY DAMAGE OR BOTH, NOT TO EXCEED A TOTAL OF \$1,500,000 PER OCCURRENCE. CORRECTIVE ACTION UNDER THIS SUBSECTION SHALL MEAN RELEASES CAUSED BY IMPROPER OR FAULTY INSTALLATIONS, MODIFICATIONS AND REMOVAL OF UNDERGROUND STORAGE TANKS.

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

(3) PAYMENTS SHALL NOT EXCEED:

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

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

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

(5) FOR ANY CLAIM UNDER THIS SECTION WHERE ELIGIBILITY WAS DETERMINED OR PAYMENT WAS MADE PRIOR TO DECEMBER 13, 2001, INVOLVING THE REMEDIATION OF METHYL TERTIARY BUTYL ETHER, THE BOARD MAY, IN FISCAL YEAR 2006-2007, AWARD AN ADDITIONAL AMOUNT OF UP TO \$500,000 PER OCCURRENCE TO PREVIOUSLY APPROVED CLAIMANTS WHO REACHED THE \$1,000,000 PAYMENT LIMIT IN EFFECT PRIOR TO DECEMBER 13, 2001. THE TOTAL

OF ALL AWARDS MADE UNDER THIS PARAGRAPH SHALL NOT EXCEED

\$3,500,000.

\* \* \*

SECTION 3. SECTION 710(B.2) OF THE ACT, AMENDED JULY 5, 2005 <—  
(P.L.97, NO.36), IS AMENDED TO READ:

SECTION 710. UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP  
PROGRAM.

\* \* \*

(B.2) ADDITIONAL ALLOCATION.--NO MORE THAN \$500,000 OF THE ANNUAL ALLOCATION FOR THE UNDERGROUND STORAGE TANK ENVIRONMENTAL CLEANUP PROGRAM MAY BE USED FOR COSTS OF CORRECTIVE ACTION TO ASSIST OWNERS OF [UNDERGROUND] STORAGE TANKS WITH A CAPACITY OF 3,000 GALLONS OR LESS USED FOR STORING HEATING OIL FOR CONSUMPTION ON THE PREMISES WHERE STORED. PAYMENTS MADE FOR ELIGIBLE RELEASES SHALL BE LIMITED IN AMOUNT TO THE ACTUAL COSTS OF CORRECTIVE ACTION OR TO \$5,000, WHICHEVER IS LESS. THE AMOUNT ALLOWED SHALL BE SUBJECT TO A \$1,000 DEDUCTIBLE WHICH SHALL BE PAID FIRST BY THE CLAIMANT. THIS SUBSECTION SHALL EXPIRE JUNE 30, 2007. ON OR BEFORE THAT DATE THE BOARD SHALL MAKE A REPORT TO THE GENERAL ASSEMBLY WITH RECOMMENDATIONS. THE BOARD MAY PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

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SECTION 2 4. SECTION 711(A) OF THE ACT, ADDED JANUARY 30, 1998 (P.L.46, NO.13), IS AMENDED TO READ:

Section 711. Underground Storage Tank Pollution Prevention  
Program.

(a) Establishment.--The board is hereby authorized to establish an Underground Storage Tank Pollution Prevention Program for the purpose of reimbursing eligible owners, as

1 defined in subsection (d), for the costs of removing regulated  
2 substances from and sealing the fill pipes of underground  
3 storage tanks [which have not been upgraded] to comply with the  
4 technical requirements of Federal and State regulations. The  
5 board shall establish guidelines for eligible expenses and  
6 procedures for reimbursement from the Underground Storage Tank  
7 Indemnification Fund.

8 \* \* \*

9 Section ~~2-3~~ 5. This act shall take effect in 60 days.

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