

CHAPTER 125

LABOR AND INDUSTRY

SENATE BILL 05-075

BY SENATOR(S) Isgar, Entz, Evans, Gordon, Kester, Taylor, Teck, and Wiens;
also REPRESENTATIVE(S) Larson, Buescher, Marshall, and Rose.

AN ACT

CONCERNING THE USE OF THE COLORADO PETROLEUM STORAGE TANK FUND FOR CORRECTIVE ACTION FOR PETROLEUM STORAGE TANKS NOT REGULATED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 8-20.5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-20.5-103. Petroleum storage tank fund - creation - repeal. (7) (a) SUBJECT TO SECTIONS 8-20.5-206 (6) AND 8-20.5-303 (6), OWNERS AND OPERATORS OF UNDERGROUND AND ABOVEGROUND STORAGE TANKS ON FEE LANDS SHALL BE ELIGIBLE FOR ACCESS TO THE FUND IF THE TANK OWNER OR OPERATOR:

(I) HAS REGISTERED SUCH TANKS PURSUANT TO SECTION 8-20.5-102 AND PAID THE SURCHARGES IMPOSED BY SECTION 8-20-206.5;

(II) CAN DEMONSTRATE THAT THE OWNER OR OPERATOR IS IN COMPLIANCE WITH THE RULES PROMULGATED PURSUANT TO SECTIONS 8-20.5-202 AND 8-20.5-302; AND

(III) CAN DEMONSTRATE THAT THE OWNER OR OPERATOR HAS COMPLIED WITH SECTIONS 8-20.5-209 AND 8-20.5-304 AND ANY OTHER RULES, POLICIES, AND PROCEDURES OF THE DEPARTMENT CONCERNING CORRECTIVE ACTION.

(b) UNDERGROUND AND ABOVEGROUND STORAGE TANK OWNERS AND OPERATORS WHO HAVE BEEN DENIED ACCESS TO THE FUND PRIOR TO JULY 1, 2005, BASED UPON A DETERMINATION THAT THE TANKS ARE ON FEE LANDS, ARE ELIGIBLE TO REAPPLY FOR REIMBURSEMENT FROM THE FUND IF THE APPLICATION IS FILED PRIOR TO DECEMBER 31, 2005, AND IS NOT BARRED BY SETTLEMENT OR OTHER AGREEMENT.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) NOTHING IN THIS SUBSECTION (7) SHALL BE CONSTRUED TO MODIFY THE DEPARTMENT'S AUTHORITY TO REGULATE OPERATION OF OR CORRECTIVE ACTION FOR UNDERGROUND AND ABOVEGROUND STORAGE TANKS ON FEE LANDS.

SECTION 2. 8-20.5-206 (6), Colorado Revised Statutes, is amended, and the said 8-20.5-206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

8-20.5-206. Financial responsibility for petroleum underground storage tanks. (6) Underground storage tanks containing petroleum or other regulated substances ~~which~~ THAT are owned or operated by, or are on property owned or leased by, AN INDIAN TRIBE OR the federal government, or ~~any~~ AN agency or subcontractor ~~thereof~~ PERFORMING SERVICES ON BEHALF OF THE FEDERAL GOVERNMENT shall be subject to federal financial responsibility regulations. Any financial responsibility requirements for damages caused by such tanks are not the responsibility of the fund unless ~~such~~ THE tanks are owned or operated by a person, other than the federal government or ~~any~~ SUCH agency or subcontractor, ~~thereof~~; and located on property ~~which~~ THAT is leased from or otherwise occupied pursuant to a permit or other agreement with the United States or any agency thereof other than the department of defense or the department of energy.

(8) SUBJECT TO SUBSECTION (6) OF THIS SECTION, OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS THAT ARE ON FEE LANDS MAY USE THE FUND TO DEMONSTRATE COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS IN FEDERAL REGULATIONS IF THE OWNERS AND OPERATORS HAVE REGISTERED SUCH TANKS PURSUANT TO SECTION 8-20.5-102.

SECTION 3. 8-20.5-303 (6), Colorado Revised Statutes, is amended, and the said 8-20.5-303 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

8-20.5-303. Financial responsibility for aboveground storage tanks. (6) Aboveground storage tanks containing petroleum or other regulated substances ~~which~~ THAT are owned or operated by, or are on-property owned or leased by, AN INDIAN TRIBE OR the federal government or ~~any~~ AN agency or subcontractor ~~thereof~~ PERFORMING SERVICES ON BEHALF OF THE FEDERAL GOVERNMENT shall be subject to federal financial responsibility regulations. Any financial responsibility requirements for damages caused by such tanks are not the responsibility of the fund unless such tanks are owned or operated by a person, other than the federal government or ~~any~~ SUCH agency or subcontractor, ~~thereof~~; and located on property ~~which~~ THAT is leased from or otherwise occupied pursuant to a permit or other agreement with the United States or any agency thereof other than the department of defense or the department of energy.

(8) SUBJECT TO SUBSECTION (6) OF THIS SECTION, OWNERS AND OPERATORS OF ABOVEGROUND STORAGE TANKS THAT ARE ON FEE LANDS MAY USE THE FUND TO DEMONSTRATE COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS IN FEDERAL REGULATIONS IF THE OWNERS AND OPERATORS HAVE REGISTERED SUCH TANKS PURSUANT TO SECTION 8-20.5-102.

SECTION 4. 8-20.5-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

8-20.5-101. Definitions. As used in this article, unless the context otherwise requires:

(5.5) "FEE LANDS" MEANS LAND OWNED IN FEE SIMPLE WITHIN THE EXTERIOR BOUNDARIES OF THE SOUTHERN UTE INDIAN RESERVATIONS IN COLORADO. "FEE LAND" DOES NOT MEAN LAND OWNED BY AN INDIAN TRIBE OR THE FEDERAL GOVERNMENT OR HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR THE USE OR BENEFIT OF AN INDIAN TRIBE OR ITS MEMBERS.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2005, and shall apply to applications filed on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 29, 2005