

## CHAPTER 293

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**LABOR AND INDUSTRY**


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**SENATE BILL 05-039**

BY SENATOR(S) Taylor, Isgar, Entz, Kester, May R., Tapia, Teck, and Tochtrop;  
also REPRESENTATIVE(S) Marshall, Larson, Berens, Knoedler, and Massey.

**AN ACT**

**CONCERNING THE ADMINISTRATION OF THE PETROLEUM STORAGE TANK FUND, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** The introductory portion to 8-20.5-103 (1), Colorado Revised Statutes, is amended, and the said 8-20.5-103 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**8-20.5-103. Petroleum storage tank fund - creation - repeal.** (1) There is hereby created in the state treasury the petroleum storage tank fund, WHICH SHALL BE AN ENTERPRISE FUND. Such fund shall consist of the following:

(h) MONEYS FROM BONDS ISSUED PURSUANT TO SUBSECTION (8) OF THIS SECTION.

**SECTION 2.** 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.** (8) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT IS AUTHORIZED TO ISSUE BONDS TO REIMBURSE ASSESSMENT AND CORRECTIVE ACTION COSTS TO REMEDIATE PETROLEUM CONTAMINATION. THE PETROLEUM STORAGE TANK COMMITTEE MAY TEMPORARILY RAISE SUCH BONDING LIMITS IN THE EVENT OF EXTRAORDINARY CIRCUMSTANCES OR ENVIRONMENTAL CONDITIONS.

**SECTION 3.** 8-20.5-206 (2), the introductory portion to 8-20.5-206 (3), and 8-20.5-206 (3) (a) and (3) (b), Colorado Revised Statutes, are amended to read:

**8-20.5-206. Financial responsibility for petroleum underground storage**

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

**tanks.** (2) The maximum amount of liability of the fund under this section shall be ~~two~~ THREE million dollars aggregate during a state fiscal year for multiple occurrences involving tanks that are the responsibility of an individual owner or operator, but in no event shall the liability of the fund exceed ~~one~~ TWO million dollars per occurrence. For purposes of this section, an "occurrence" means the period of time from identification through remediation of a leak, spill, or release of a petroleum product from an underground storage tank. In the event the cost of remediation or third-party claims exceeds the amount available to pay such costs, such costs and claims shall be paid on a pro rata basis as determined by the committee created in section 8-20.5-104. Any balance owed shall be paid as moneys become available in the fund. Any excess costs that are not paid by the fund or by the federal leaking underground storage tank trust fund shall be paid by and are the sole responsibility of the responsible owner or operator.

(3) Moneys in the fund shall be available to pay required cleanup costs and third-party liability payments with no deductibles for the following ~~persons~~ APPLICANTS who are deemed to bear no responsibility for the release:

(a) A CURRENT OR FORMER property owner who has never OWNED, operated, LEASED, OR MANAGED petroleum underground storage tanks at the property where the release occurred, provided such property was acquired on or before June 3, 1992, and IN THE CASE OF A PREEXISTING RELEASE, the property owner had no reason to know that a release had occurred PRIOR TO ACQUIRING THE PROPERTY;

(b) When an orphan or abandoned petroleum underground storage tank is involved and the APPLICANT IS A current OR FORMER owner, operator, or property owner WHO has never operated the tank or tanks and had no reason to know that a release had occurred PRIOR TO ACQUIRING THE PROPERTY;

**SECTION 4.** 8-20.5-303 (2), the introductory portion to 8-20.5-303 (3), and 8-20.5-303 (3) (a) and (3) (b), Colorado Revised Statutes, are amended to read:

**8-20.5-303. Financial responsibility for aboveground storage tanks.** (2) The maximum amount of liability of the fund under this section shall be ~~two~~ THREE million dollars aggregate during a fiscal year for multiple occurrences involving tanks that are the responsibility of an individual owner or operator, but in no event shall the liability of the fund exceed ~~one~~ TWO million dollars per occurrence. For purposes of this section, an "occurrence" means the period of time from identification through remediation of a leak, spill, or release of a petroleum product from an aboveground storage tank. In the event the cost of remediation or third-party claims exceeds the amount available to pay such costs, such costs and claims shall be paid on a pro rata basis as determined by the committee created in section 8-20.5-104. Any balance owed shall be paid as moneys become available in the fund. Any excess costs that are not paid by the fund shall be paid by and are the sole responsibility of the responsible owner or operator.

(3) Moneys in the fund shall be available to pay required cleanup costs and third-party liability payments with no deductibles for the following ~~persons~~ APPLICANTS who are deemed to bear no responsibility for the release:

(a) A CURRENT OR FORMER property owner who has never OWNED, operated,

LEASED, OR MANAGED aboveground storage tanks at the property where the release occurred, provided such property was acquired on or before June 3, 1992, and IN THE CASE OF A PREEXISTING RELEASE, the property owner had no reason to know that a release had occurred PRIOR TO ACQUIRING THE PROPERTY;

(b) When an orphan or abandoned aboveground storage tank is involved and the APPLICANT IS A current OR FORMER owner, operator, or property owner WHO has never operated the tank or tanks and had no reason to know that a release had occurred PRIOR TO ACQUIRING THE PROPERTY;

**SECTION 5.** 8-20-206.5 (1) (b) and (1) (c) and the introductory portion to 8-20-206.5 (1) (e) (I), Colorado Revised Statutes, are amended to read:

**8-20-206.5. Environmental response surcharge - liquefied petroleum gas inspection fund.** (1) (b) In the event the available fund balance in the petroleum storage tank fund is greater than ~~thirty~~ TWELVE million dollars, no surcharge shall be imposed, but if the available fund balance in the fund is less than:

(I) ~~Thirty~~ TWELVE million dollars, the fee imposed by paragraph (a) of this subsection (1) shall be ~~twenty-five~~ FIFTY dollars per tank truckload;

(II) ~~Twenty~~ SIX million dollars, the fee imposed shall be ~~fifty~~ SEVENTY-FIVE dollars per tank truckload;

(III) ~~Five~~ THREE million dollars, the fee imposed shall be ~~seventy-five~~ ONE HUNDRED dollars per tank truckload.

(c) Notwithstanding paragraph (b) of this subsection (1), on and after July 1, ~~2007~~ 2012, if the available fund balance in the petroleum storage tank fund is greater than eight million dollars, no surcharge shall be imposed, but if the available fund balance in the fund is less than eight million dollars, the fee imposed by paragraph (a) of this subsection (1) shall be twenty-five dollars per tank truckload.

(e) (I) There is hereby created the liquefied petroleum gas inspection fund ~~which fund shall be a special purpose account within the petroleum storage tank fund created pursuant to section 8-20.5-103.~~ WITHIN THE STATE TREASURY. NEITHER THIS SECTION NOR SECTION 8-20.5-103 SHALL BE CONSTRUED TO MAKE THE LIQUEFIED PETROLEUM GAS INSPECTION FUND AN ENTERPRISE FUND. Such fund shall consist of:

**SECTION 6. Appropriation - adjustments to the 2005 Long Bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the petroleum storage tank fund created in section 8-20.5-103, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, division of oil and public safety, for the fiscal year beginning July 1, 2005, the sum of one million dollars (\$1,000,000) cash funds exempt, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2005, shall be adjusted as follows:

(a) The cash funds appropriation to the department of labor and employment, division of oil and public safety, is decreased by one million eight hundred eighty-one thousand three hundred twenty-eight dollars (\$1,881,328). Said sum shall be from the petroleum storage tank fund created in section 8-20.5-103, Colorado Revised Statutes.

(b) The cash funds exempt appropriation to the department of labor and employment, division of oil and public safety, is increased by one million eight hundred eighty-one thousand three hundred twenty-eight dollars (\$1,881,328). Said sum shall be from the petroleum storage tank fund created in section 8-20.5-103, Colorado Revised Statutes.

**SECTION 7. Effective date - applicability.** This act shall take effect July 1, 2005, and shall apply to fees imposed on or after said date.

**SECTION 8. 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: June 3, 2005