

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Environmental Quality)

1 A BILL for an Act to amend and reenact subsection 13 of section 23.1-12-02 and subdivision a  
2 of subsection 1 of section 23.1-12-18 of the North Dakota Century Code, relating to the  
3 definition of tank and corrective action reimbursement for petroleum releases.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 13 of section 23.1-12-02 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 13. "Tank" means any one or a combination of containers, vessels, and enclosures,  
8 whether aboveground or underground, including associated piping or appurtenances  
9 used to contain an accumulation of petroleum, ethanol, or biodiesel. The term does  
10 not include:

- 11 a. Tanks owned by the federal government.
- 12 b. Tanks used for the transportation of petroleum.
- 13 c. A pipeline facility, including gathering lines:
- 14 (1) Regulated under the Natural Gas Pipeline Safety Act of 1968.
- 15 (2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979.
- 16 (3) Regulated under state laws comparable to the provisions of law in  
17 paragraph 1 or 2, if the facility is an interstate pipeline facility.
- 18 d. An underground farm or residential tank with a capacity of one thousand one  
19 hundred gallons [4163.94 liters] or less or an aboveground farm or residential  
20 tank of any capacity used for storing motor fuel for noncommercial purposes.  
21 However, the owner of an aboveground farm or residential tank may, upon  
22 application, register the tank and be eligible for reimbursement under this  
23 chapter.

- 1 e. A tank used for storing heating oil for consumptive use on the premises where  
2 stored.
- 3 f. A surface impoundment, pit, pond, or lagoon.
- 4 g. A flowthrough process tank.
- 5 h. A liquid trap or associated gathering lines directly related to oil or gas production  
6 or gathering operations.
- 7 i. A storage tank situated in an underground area such as a basement, cellar, mine  
8 working, drift, shaft, or tunnel, if the storage tank is situated upon or above the  
9 surface of the floor.
- 10 j. A tank used for the storage of propane.
- 11 k. A tank used to fuel rail locomotives or surface coal mining equipment.
- 12 l. An aboveground tank used to feed diesel fuel generators. Upon application, the  
13 owner or operator of an aboveground tank used to feed diesel fuel generators  
14 may register the tank and is eligible for reimbursement under this chapter.
- 15 m. A portable tank.
- 16 n. A tank with a capacity under one thousand three hundred twenty gallons  
17 [4996.728 liters] used to store lubricating oil.
- 18 o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity  
19 of greater than twenty thousand gallons [75708.24 liters].

20 **SECTION 2. AMENDMENT.** Subdivision a of subsection 1 of section 23.1-12-18 of the  
21 North Dakota Century Code is amended and reenacted as follows:

- 22 a. ~~At the time the release was discovered the owner or operator and the tank were~~  
23 ~~in compliance with state and federal rules and rules applicable to the tank,~~  
24 ~~including rules relating to financial responsibility, rules relating to infrastructure~~  
25 ~~compatibility, and all rules relating to health and safety which were in effect at the~~  
26 ~~time of the release, the tank was in substantial compliance with all applicable~~  
27 ~~rules of the United States environmental protection agency, the state fire marshal,~~  
28 ~~and the department. The department shall determine substantial compliance by~~  
29 ~~considering:~~  
30 (1) The purposes of this chapter;

- 1                   (2) The adverse effect that any violation of the rules may have had on the tank,
- 2                               thereby causing or contributing to the release; and
- 3                   (3) The extent of the remedial action required;