

An Act

ENROLLED HOUSE
BILL NO. 2151

By: Pfeiffer of the House

and

Rader of the Senate

An Act relating to the Oklahoma Corporation Commission; amending 17 O.S. 2011, Sections 301, as amended by Section 1, Chapter 27, O.S.L. 2018, 302, as last amended by Section 2, Chapter 27, O.S.L. 2018, 303, as last amended by Section 3, Chapter 27, O.S.L. 2018, 306, as amended by Section 6, Chapter 27, O.S.L. 2018, 308, as amended by Section 8, Chapter 27, O.S.L. 2018, 309, as amended by Section 10, Chapter 27, O.S.L. 2018, 311, as amended by Section 13, Chapter 27, O.S.L. 2018, 322, as last amended by Section 21, Chapter 27, O.S.L. 2018, 324, as amended by Section 22, Chapter 27, O.S.L. 2018, 325, as amended by Section 23, Chapter 27, O.S.L. 2018 and Sections 24, 25, 26, 36, 39, 43, 45, 51, 52, 53, 54, 55, 56 and 57, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Sections 301, 302, 303, 306, 308, 309, 311, 322, 324, 325, 327, 327.1, 327.2, 341.3, 344, 346.2, 346.4, 348.3, 348.4, 348.5, 348.6, 348.7, 348.8 and 348.9), which relate to programs related to the underground storage programs; modifying statutory references; modifying references to certain funds; providing for misdemeanor fine and penalty; providing an effective date; and declaring an emergency.

SUBJECT: Underground storage programs

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2011, Section 301, as amended by Section 1, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 301), is amended to read as follows:

Section 301. A. ~~This act~~ Sections 301 through 348.9 of this title shall be known and may be cited as the "Oklahoma Petroleum Storage Tank Consolidation Act".

B. For the purposes of implementing the Oklahoma Petroleum Storage Tank Consolidation Act, there is hereby recognized the Oklahoma Petroleum Storage Tank Program administered by the Petroleum Storage Tank Division of the Oklahoma Corporation Commission.

C. The Petroleum Storage Tank Division shall maintain, operate and administer the Oklahoma Petroleum Storage Tank Program and shall include, but not be limited to, regulatory compliance activities, enforcement of rules promulgated to implement regulatory programs, technical review, development and approval of corrective action plans and determinations that remediation of contaminated sites is complete.

D. The Petroleum Storage Tank Division shall maintain, operate and administer the Petroleum Storage Tank Indemnity Fund (Indemnity Fund) and shall include, but not be limited to, processing, reviewing and paying claims for corrective action costs resulting from a release of regulated substances and mitigate environmental, health and safety threats to the public. The Administrator of the Indemnity Fund shall maintain, operate and administer the Indemnity Fund, and process, review and pay claims to those individuals deemed eligible for reimbursement for corrective action at eligible petroleum release sites.

E. The Petroleum Storage Tank Division shall maintain, operate and administer an inspection program for facilities that store or dispense Commission-regulated substances for the purpose of determining whether such products comply with the specifications, requirements, rules and orders of the Corporation Commission and the laws of the state.

F. The Petroleum Storage Tank Division shall maintain, operate and administer a program for the regulation of antifreeze sold or held with the intent to sell within the state for the purpose of determining whether such products comply with the specifications,

requirements, rules and orders of the Corporation Commission and the laws of the state.

SECTION 2. AMENDATORY 17 O.S. 2011, Section 302, as last amended by Section 2, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 302), is amended to read as follows:

Section 302. A. The Legislature finds that the release of regulated substances from storage tanks into the surface water, groundwater, air and subsurface soils of this state poses a potential threat to the environment, health, safety and welfare of the residents of this state.

Therefore the Legislature declares it is the public policy of this state to protect the public health, safety, welfare, and the environment from the potential harmful effects of storage tanks used to store regulated substances. The Legislature acknowledges that certain statutory enactments regarding petroleum storage tank systems are set forth in other titles. To that extent and to effectuate consolidation, storage tank system inspections and the regulation of antifreeze are included in the Oklahoma Petroleum Storage Tank Consolidation Act. In order to implement this policy, it is the intent of the Legislature to consolidate programs for the regulation of storage tank systems, antifreeze, inspections and Indemnity Fund compensation for eligible petroleum storage tank releases; and that the regulation of spills and releases from petroleum storage tanks, oversight of petroleum storage tank environmental corrective action, and the reimbursement of claims for costs incurred for petroleum storage tank environmental corrective action be administered by the Oklahoma Corporation Commission Petroleum Storage Tank Division.

B. The purpose of the Oklahoma Petroleum Storage Tank Consolidation Act is to provide for the administration of the various programs within the Oklahoma Corporation Commission regulating the release or spilling of regulated substances from petroleum storage tanks and to utilize financial resources for petroleum storage regulatory services, administration and reimbursement of claims for environmental corrective action by the Petroleum Storage Tank Indemnity Fund.

C. The provisions of this act shall be applicable to all current, pending, past and future contracts, claims and cases within the jurisdiction of the Petroleum Storage Tank Division; provided, that this subsection shall not apply to, nor be construed to

authorize or permit the reopening or review of, the underlying claim or claims of any cases which were formally settled pursuant to a formal settlement agreement or which a final order was entered by the Corporation Commission. Further, the provisions of this act shall not change or modify the terms of purchase order agreements entered into prior to the effective date of this act.

D. In addition, to provide that petroleum storage tank regulatory concerns of industry and the public shall be addressed in an expedient manner, the Legislature further finds that:

1. Significant quantities of regulated substances are being stored in storage tank systems in this state;

2. Spills, leaks and other releases of regulated substances from such storage tank systems have occurred, are occurring and will continue to occur;

3. Such releases often pose a significant threat to the public health and safety, the quality of the water and other natural resources in this state;

4. Where contamination has occurred, corrective action measures have often been delayed for long periods while determination as to the liability and extent of liability are made;

5. Such delays result in the continuation and intensification of the threat to the public health, safety and welfare, in greater damage to the environment, and in significantly higher costs to contain and remove the contamination;

6. Adequate financial resources must be readily available to enable owners, operators and other persons to take the corrective action necessary to investigate and, if necessary, remediate such contaminated sites; and

7. Adequate financial resources shall be provided by the petroleum storage tank program established by the Petroleum Storage Tank Indemnity Fund and funded by an assessment on the sale of motor fuel, diesel fuel and blending materials in this state by a distributor.

E. The Legislature declares that, in order to provide for the investigation and, if necessary, remediation of as many contaminated sites resulting from releases of regulated substances from storage

tank systems as soon as possible, any person eligible for Indemnity Fund reimbursement pursuant to the provisions of this act shall be compensated for certain allowable costs incurred in connection with corrective action, subject to the conditions specified by ~~this act~~ Sections 301 through 348.9 of this title.

SECTION 3. AMENDATORY 17 O.S. 2011, Section 303, as last amended by Section 3, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 303), is amended to read as follows:

Section 303. As used in the Oklahoma Petroleum Storage Tank Consolidation Act:

1. "Abandoned system" means a storage tank system which:

- a. has been taken permanently out of service as a storage vessel for any reason or is not intended to be returned to service,
- b. has been out of service for one (1) year or more prior to April 21, 1989, or
- c. has been rendered permanently unfit for use as determined by the Commission after notice and hearing;

2. "Administrator" means the person hired by the Director of the Petroleum Storage Tank Division of the Corporation Commission to administer the Indemnity Fund;

3. "Administrative application" means an application and notice of hearing filed by the Director of the Petroleum Storage Tank Division for a judicial determination of any question regarding the administration of the regulatory, Indemnity Fund or inspection program of the Petroleum Storage Tank Division;

4. "Assignment of benefits" means a written directive from the applicant of record instructing the Commission to pay allowable costs incurred directly to the named assignee including, but not limited to, an environmental consultant;

5. "Assignment of rights" or "limited power of attorney" means a transfer of authority granting the assignee the legal right to act on grantor's behalf regarding specified matters;

6. "Biodiesel" for the purpose of prescribing specifications for the quality of biodiesel shall mean a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the requirements of the American Society for Testing and Materials (ASTM) D6751 standards. A biodiesel blend is a blend of biodiesel fuels meeting the ASTM D6751 standards with a petroleum-based diesel fuel, which is designated "Bxx", with "xx" representing the volume percentage of biodiesel fuel in the blend;

7. "Commission" means the Corporation Commission;

8. "Confirmed release" means a level of concentration of chemicals of concern that may be sufficient to cause adverse effects upon human health or the environment or cause a nuisance;

9. "Contaminants" or "contamination" means the presence of Commission-regulated substances in the environment;

10. "Corrective action" means action taken to monitor, investigate, minimize, eliminate or perform remediation of a release from a storage tank system;

11. "Director" means the Director of the Petroleum Storage Tank Division of the Corporation Commission;

12. "Distributor" means:

- a. every person importing or causing to be imported into this state any motor fuel, diesel fuel or blending material for use, distribution, or sale and distribution, or sale and delivery after the same reaches this state. Distributor does not mean persons importing motor fuel only in the supply tank of a vehicle originally provided by the manufacturer of the motor vehicle as a container for motor fuel or diesel fuel to propel such motor vehicle, nor does distributor mean persons only importing motor fuel, diesel fuel or blending material into the state under circumstances requiring that they be licensed as "Motor Fuel/Diesel Fuel Importers for Use" as defined in paragraph 7 of Section 601 of Title 68 of the Oklahoma Statutes and who are actually so licensed,

- b. any person producing, refining, preparing, distilling, blending, manufacturing, or compounding motor fuel or blending material in this state for use, distribution or sale and delivery in this state,
- c. any person within this state producing or collecting what is commonly known as drip, casinghead or natural gasoline,
- d. any person who has in his or her possession or buys for sale or use motor fuel, diesel fuel or blending material from any person other than a licensed distributor, retailer or dealer,
- e. any person other than a retailer or dealer who sells motor fuel, diesel fuel or blending material to anyone except a licensed distributor,
- f. any person who makes bulk sales of motor fuel, diesel fuel or blending material, and
- g. any other person, including a retailer or dealer, who has filed an application for and has procured a distributor's license in the manner provided by the Oklahoma Motor Fuel/Diesel Fuel Importers for Use Tax Code, Section 601 et seq. of Title 68 of the Oklahoma Statutes;

13. "Division" means the Petroleum Storage Tank Division of the Corporation Commission;

14. "Eligible person" means:

- a. any owner or operator of a storage tank system who has incurred liability as a result of an eligible release, and who meets the requirements specified in Section 27 327.3 of this ~~act~~ title,
- b. any person who on or after November 8, 1984, purchases or acquires property by any means on which a storage tank system is located if:
 - (1) the storage tank system was located on the property on November 8, 1984,

- (2) such person could not have known that such storage tank system existed. The burden shall be upon such purchaser to show that such purchaser did not know or should not have known of the existence of such storage tank system,
 - (3) the owner or operator of the storage tank system responsible for the system cannot be determined by the Corporation Commission or the Indemnity Fund Administrator, or the owner or operator of the storage tank system responsible for the system is incapable, in the judgment of the Corporation Commission, of properly carrying out any necessary corrective action taken pursuant to Section ~~30~~ 309 of this ~~act~~ title, and
 - (4) either funds are unavailable from the Oklahoma Leaking Underground Storage Tank Trust (LUST Trust) Fund or the ~~underground~~ storage tank system is not eligible for corrective action taken pursuant to Section ~~30~~ 328 of this ~~act~~ title,
- c. any person who acquired ownership of a tank system through inheritance or other means or is responsible for a release by reason of owning the real property within which a tank or a release is or was located if:
- (1) the storage tank system of the release was located on the real property on November 8, 1984,
 - (2) the operator of the storage tank system responsible for the system or responsible for a release cannot be determined or found by the Corporation Commission, or the operator of the storage tank system responsible for the system or responsible for the release is incapable, in the judgment of the Corporation Commission, of properly carrying out any necessary corrective action,
 - (3) either funds are unavailable from the LUST Trust Fund or the ~~underground~~ storage tank system or release is not eligible for corrective action

taken pursuant to Section ~~30~~ 328 of this ~~act~~
title,

(4) the person did not participate or was not responsible in any manner, directly or indirectly, in the management of the storage tank system or for the release and otherwise is not engaged in petroleum production, refining or marketing, and

(5) the person meets the requirements specified in Section ~~27~~ 327.3 of this ~~act~~ title, or

(d) any person who is an impacted party, adjacent owner or town, city or political subdivision as determined by the Commission and who willingly submits to the regulations of the Commission governing petroleum storage tank system owners, operators or agents;

15. "Eligible release" means a release of regulated substances for which allowable costs, as determined by the Indemnity Fund Administrator, are reimbursable to or on behalf of an eligible person;

16. "Environment" means any water, water vapor, any land including land surface or subsurface, atmosphere, fish, wildlife, biota, domestic animals and all other natural resources;

17. "Environmental consultant" means an individual licensed by the Commission or an environmental consulting company retaining or employing a Commission-licensed environmental consultant;

18. "Facility" means any location or part thereof containing one or more storage tanks or systems;

19. "Impacted party" means an owner whose property has been impacted by a release from an on-site or off-site petroleum storage tank system which the impacted person did not own or operate and for which the impacted person has had no responsibility under Commission rules. An impacted party may apply for an eligibility determination for reimbursement from the Indemnity Fund. An impacted party is not subject to the Indemnity Fund co-pay;

20. "Indemnity Fund" means the Petroleum Storage Tank Indemnity Fund;

21. "Investigation" means activities taken to identify, confirm, monitor or delineate the physical extent of a release;

22. "Maintenance level" means the minimum balance of the Indemnity Fund to be maintained and below which the Indemnity Fund balance will fall when the balance of the Indemnity Fund is below the dollar amount of disbursements from the Indemnity Fund for the payment of claims during the preceding six (6) months plus Five Million Dollars (\$5,000,000.00);

23. "Measuring device" shall mean any and all measuring devices through or by the use of which regulated substances are sold, dispensed or delivered to the public or to any person buying any such substance for any purpose other than resale;

24. "Motor fuel" has the same meaning as the term is defined by Section 500.3 of Title 68 of the Oklahoma Statutes;

25. "New system" means a storage tank system for which the installation or upgrade of the system began on or after December 22, 1998. Storage tank systems installed after July 1, 2008, must be secondarily contained and use interstitial monitoring;

26. "Operator" means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, or a violation of the Oklahoma Petroleum Storage Tank Consolidation Act or of a rule promulgated thereunder;

27. "Owner" means:

- a. in the case of a storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to real estate, controls, or possesses an interest in a storage tank system or property where a storage tank system is located used for the storage, use, or dispensing of regulated substances, or
- b. in the case of a storage tank system in use before November 8, 1984, but no longer in service on that date, any person who held title to, controlled, or

possessed an interest in a storage tank system immediately before the discontinuation of its use.

The term "owner" does not include a person who holds an interest in a tank system solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank system;

28. "Pay-for-performance" means a process by which an environmental consultant guarantees, by executing a contract pursuant to the provisions of this paragraph, that a release of a regulated substance will be remediated to levels agreed to by the Commission, the eligible person and the consultant. Such levels must be protective of human health, safety and the environment. The performance-based process encompasses several steps including, but not limited to, the development of a contract signed by an officer/owner of the environmental consultant, the eligible person and the Indemnity Fund Administrator. The contract shall contain any agreed-upon reasonable price for the work to be performed. Scheduled payments shall be distributed only as performance-based goals are attained;

29. "Permit" means any registration, permit, license or other authorization issued by the Commission to operate a storage tank system;

30. "Person" means any individual, trust, firm, joint stock company or corporation, limited liability company, partnership, association, any representative appointed by order of a court, the state, any municipality, county, school district or other political subdivision or agency of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, the United States Government, a federal agency, including a government corporation, or any other legal entity;

31. "Petroleum" means antifreeze, new or used motor oil, gasoline, kerosene, diesel, aviation fuel or blended fuel including, but not limited to, gasoline, diesel, and aviation fuel that is blended with biodiesel, ethanol, Methyl Tertiary Butyl Ether (MTBE) or other additive for purposes of fueling a combustion engine;

32. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the state, land surfaces or subsurfaces, or atmosphere when such contamination or alteration will or is likely to create a nuisance

or render the waters, land or atmosphere harmful or detrimental or injurious to the public health, safety or welfare or the environment;

33. "Purchase order" means a performance-based agreement negotiated between an environmental consultant and the Petroleum Storage Tank Division stipulating a scope of work to be performed by a target date, for which the Petroleum Storage Tank Indemnity Fund will reimburse a specified amount;

34. "Regulated substance" means petroleum which is regulated pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act;

35. "Reimbursement" means either:

- a. repayment of an approved claim to an eligible person for allowable costs resulting from an eligible release, or
- b. payment of an approved claim submitted on behalf of an eligible person for incurred allowable costs resulting from an eligible release;

36. "Release" means any spilling, overfilling, leaching, emitting, discharging, escaping, unintentional disposing or leaking from a storage tank system that goes beyond the excavation zone, tankpit, or secondary containment into the environment. The term release includes but is not limited to a suspected or confirmed release of a regulated substance from a storage tank system identified as a result of sampling, testing or monitoring results, or identified in any similarly reliable manner;

37. "Remediation" means a process or technique used to reduce concentration levels of chemicals of concern in the soil and groundwater, and/or to reduce the presence of free product in the environment to levels that are protective of human health, safety and the environment;

38. "Responsible person" means any person that is seeking corrective action of real property, and submits to the jurisdiction of the Commission;

39. "Sale" means every gallon of motor fuel, diesel fuel, or blending materials sold, or stored and distributed, or withdrawn from storage, within the state, for sale or use. No gallon of motor

fuel, diesel fuel, or blending materials shall be the basis more than once of the assessment imposed by Section ~~25~~ 327.1 of this ~~act~~ title;

40. "Storage tank" is a permanent trade fixture and means a stationary vessel designed to contain an accumulation of regulated substances. It includes the individual compartments within a compartmentalized tank, any aboveground or underground connected piping, and is a trade fixture. A storage tank that has ten percent (10%) or more of its volume beneath the surface of the ground is considered an underground storage tank;

41. "Storage tank system" means a closed-plumbed system including, but not limited to, the storage tank(s), the individual storage tank compartments, the lines, the dispenser for a given product, containment sump, if any, ancillary equipment or a delivery truck that is connected to the storage tank system;

42. "Synthetic diesel" for the purpose of prescribing specifications for the quality of synthetic diesel shall mean a hydrocarbon made up of hydrocarbons that are primarily aliphatic in character with the number of carbon atoms ranging from C-10 to C-20. The hydrocarbons are produced from carbon monoxide and hydrogen, synthesis gas, by passing the synthesis gas over a catalyst under temperature and pressure, commonly known as the Fischer-Tropsch process. Synthetic diesel shall meet all ASTM D975 specifications with or without the use of lubrication additives. A synthetic diesel blend is a blend of synthetic diesel fuel with a petroleum-based diesel fuel, which is designated "Sxx", with "xx" representing the volume percentage of synthetic diesel fuel in the blend;

43. "Tax Commission" means the Oklahoma Tax Commission;

44. "Transporter" means any person who transports, delivers or distributes any quantity of regulated substance from one point to another for the purpose of wholesale or retail gain; and

45. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oklahoma or any portion thereof.

SECTION 4. AMENDATORY 17 O.S. 2011, Section 306, as amended by Section 6, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 306), is amended to read as follows:

Section 306. Within its jurisdictional areas of responsibility, the Corporation Commission Petroleum Storage Tank Division shall have the power and duty to:

1. Issue, renew, deny, modify, suspend, refuse to renew and revoke licenses, registrations and permits pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and rules promulgated pursuant thereto;

2. Enter at any reasonable time upon any public or private property for the purpose of inspecting and investigating storage tank system monitoring or remediation equipment and taking such samples as may be necessary to determine compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, and rules promulgated pursuant thereto;

3. Request issuance of an administrative warrant or search warrant as may be necessary by Commission application after notice and hearing to allow entry, inspection, testing, sampling, or copying on public or private property;

4. Have access to and copy any records required to be maintained pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto;

5. Cause investigations, inquiries and inspections to be made. Inspect any equipment, practice or method prior to implementation which is required by the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto;

6. Have the right to access any property which has or may have had a petroleum storage tank system, a suspicion of release or a confirmed release from a petroleum storage tank system on the premises, and inspect any monitoring equipment, conduct sampling or tests to identify any actual or suspected release of a regulated substance;

7. Investigate alleged violations of the Oklahoma Petroleum Storage Tank Consolidation Act. Employ, authorize or designate

personnel to conduct inquiries, investigations, inspections, and to perform other acts that the Director of the Petroleum Storage Tank Division is authorized or required to conduct or perform, to make reports of compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and rules promulgated pursuant thereto;

8. Within its discretion, report and request criminal prosecution proceedings to the district attorney having jurisdiction or to the Attorney General any act committed by any person, entity, owner, operator, employee or agent of a facility which may constitute a violation of the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, any order issued or rules promulgated pursuant thereto;

9. Advise, consult, assist, and cooperate with other agencies of this state, towns, cities, counties, industries, the federal government, other states and interstate agencies and with affected groups and political subdivisions regarding petroleum storage tank issues;

10. Financially assist other agencies and political subdivisions of the state where the Petroleum Storage Tank Division has jurisdiction;

11. Administer the Storage Tank Program in lieu of the federal government upon approval by the Environmental Protection Agency;

12. Promulgate and enforce rules to implement the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act;

13. Establish minimum standards and schedules for storage tank systems;

14. Require any owner or operator of a storage tank system within this state to:

- a. submit such reports and information concerning the storage tank system as may be determined necessary by the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto,

- b. perform tests, install release detection devices, and where appropriate, monitor the environment to ensure that a petroleum release is not occurring,
- c. make timely reports to the Commission of contamination, releases, or testing and sampling events at or above Commission action levels,
- d. temporarily or permanently cease operation of a storage tank system, modify and immediately remove or control any regulated substance that is found to be causing contamination when such cessation, removal or control is determined to be necessary by the Commission,
- e. provide an alternate or temporary drinking water source to any person deprived of drinking water if it is found that such owner or operator is responsible for contaminating the drinking water source beyond applicable drinking water standards, or where no such standard exists, such standard as the Department of Environmental Quality shall determine,
- f. take full corrective action if such owner or operator or other such responsible person is found to be responsible for the release, and
- g. take appropriate action to temporarily relocate residents affected by the release;

15. Establish and enforce administrative penalties against any person or entity for violations pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, requirements, rules promulgated thereunder, or orders issued therefrom, including issuance of field citations by designated personnel for violations of the Oklahoma Petroleum Storage Tank Consolidation Act, including but not limited to the authority to shut down a storage tank system found to pose an imminent threat to the health, safety or the environment, to be operating a storage tank system for which permit fees have not been paid, or to be operating a storage tank system with an outstanding unpaid field citation or fine, or violation of a Commission requirement, rule or order. The Commission shall promulgate rules specifying the events that provide for storage tank system shutdown. Issuance or payment of field citations shall in no way preclude other enforcement proceedings, administrative

penalties, fines or order of the Commission if an owner or operator fails to correct a violation or abate a threat to health, safety or the environment in a reasonable manner, as determined by the Commission. If a citation is issued or a facility is closed under the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, the owner or operator of the facility on application and notice of hearing to the Commission shall be afforded a hearing within ten (10) days of filing an application. Any penalties or fines assessed pursuant to this section shall be established by the Commission by rules promulgated pursuant to the Administrative Procedures Act;

16. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act to protect the health, safety and welfare of any resident of this state or the environment;

17. Review emergency response plans developed outside the Commission;

18. Establish a schedule of fees for issuance of any permit, license, inspection, form or registration in an amount to cover the costs of the Commission in administering the Oklahoma Petroleum Storage Tank Consolidation Act. Payment of the permitting fees for any storage tank system required pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or to rules promulgated pursuant thereto shall prohibit the assessment of additional registration, inspection, licensing or permitting fees for such storage tank systems by any other agency or municipality of this state;

19. Create and implement an internally coordinated management system for the Petroleum Storage Tank Division;

20. When necessary, economically advantageous, reasonable and integral to a corrective action effort or to establish an alternative water supply, the Petroleum Storage Tank Division may, in the exercise of its powers for the performance of its duties as authorized by this section, purchase real property and easements, and if an owner/operator is unwilling, unknown, unavailable or financially unable, the Petroleum Storage Tank Division may arrange for the design, construction and operation of an alternative water supply system conjunctive with a corrective action effort and/or the establishment of an alternative water supply with funds from the Indemnity Fund. Provided, no real property shall be purchased by

the Commission pursuant to this paragraph which will impose liability on the Commission, Petroleum Storage Tank Division, the Indemnity Fund or on the state for environmental claims or hazards. Disposition of property purchased by the Indemnity Fund shall be made by the Petroleum Storage Tank Division and the Office of Management and Enterprise Services. Proceeds from any sale shall be deposited to the credit of the Petroleum Storage Tank Indemnity Fund;

21. Acquire and sell personal property which has been purchased or obtained by a pay-for-performance contract pursuant to Section ~~27~~ 327.3 of this ~~act~~ title. Surplus personal property shall be disposed of by the Petroleum Storage Tank Division and the Office of Management and Enterprise Services pursuant to the Oklahoma Surplus Property Act. The proceeds of the sale shall be deposited in the Petroleum Storage Tank Indemnity Fund;

22. Implement and coordinate an Underground Storage Tank Operator Training Program pursuant to the provisions of Section 319 of this title, issue annual permits related thereto and assess any fees necessary for such training and permitting;

23. Encourage and conduct studies, investigations and research; and collect and disseminate information relating to petroleum-storage-tank-related contamination and its causes, effects, prevention, control and abatement;

24. Enter into agreements for, accept, use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and conduct in this state any program relating to petroleum storage tank regulation;

25. Determine, charge and receive fees to be collected for services, research and permits, to file other papers, to make copies of documents, to make prints of maps and drawings, and to certify copies of documents, maps and drawings as authorized by law;

26. Provide a toll-free phone number for petroleum-storage-tank-related complaints;

27. Develop standards for pipeline terminal and refinery delivery point metering and calibration and provide for appropriate

inspection and regulation of such meters where the metered product is to be delivered to petroleum storage tanks; and

28. Exercise all incidental powers as necessary and proper for the administration of the Oklahoma Petroleum Storage Tank Consolidation Act.

SECTION 5. AMENDATORY 17 O.S. 2011, Section 308, as amended by Section 8, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 308), is amended to read as follows:

Section 308. A. 1. Except as otherwise provided by this subsection, no storage tank system or facility shall be operated without a permit from the Corporation Commission.

2. A storage tank system is not required to be permitted if the tank system:

- a. does not contain or has not contained a regulated substance, or
- b. has been permanently closed or has not been in operation since January 1, 1974.

B. No person shall deposit a regulated substance into a storage tank system unless the system is operating pursuant to a permit issued by the Commission.

C. Any person who sells a storage tank system shall notify the owner or operator, or both, of the permit requirements of the Oklahoma Petroleum Storage Tank Consolidation Act, Section 301 et seq. of this title.

D. A storage tank registration form must be provided to and approved by the Commission before a permit is issued. In addition to other information requested by the Commission, the registration form shall include the type of financial responsibility coverage utilized to comply with the requirements of the Oklahoma Petroleum Storage Tank Consolidation Act and by rule of the Commission and the type of leak detection method employed.

E. 1. Permits shall be issued by the Commission for a period not to exceed one (1) year.

2. Any permit issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act may be transferred subject to rules promulgated by the Commission and only upon approval by the Commission.

3. Any permittee subject to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act shall be deemed to have given consent to any duly authorized employee or agent of the Commission to access, enter, inspect or monitor, the tank system or facility in accordance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act. Refusal to allow such access, entry, or inspection may constitute grounds for the denial, nonrenewal, suspension, or revocation of a permit. Upon refusal of access, entry, inspection, sampling or copying pursuant to this section, the Director may make application for and obtain an administrative warrant or an order from the Commission after notice and hearing to allow such entry, inspection, testing, sampling or copying.

4. The owner or operator of a storage tank system shall display the permit in a conspicuous location or manner easily visible to any person depositing a regulated substance into a storage tank system even after normal business hours.

F. Any permit fee collected pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act shall be deposited in the Corporation Commission ~~Petroleum Storage Tank Consolidation~~ Revolving Fund.

G. The Commission may deny approval of a storage tank registration, or refuse to reissue, suspend or revoke a permit issued pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act if the Commission finds, after notice and a hearing pursuant to Section 311 of this title that the applicant or permittee has:

1. Fraudulently or deceptively obtained or attempted to obtain a permit;

2. Failed to comply with any order of the Commission, provision or requirement of this act or any rules promulgated by the Commission in accordance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act; or

3. Not maintained in effect, the financial responsibility requirements established by subsection H of this section and by rules of the Commission.

H. Any person owning or operating a storage tank system containing a regulated substance who is not otherwise exempted by law or rule of the Commission shall obtain and have in effect financial responsibility coverage for taking corrective action and for compensating third parties for physical injury and property damage caused by releases arising from operating storage tank systems. The requirement for financial responsibility coverage specified by this subsection shall not be more stringent than is required by the federal Environmental Protection Agency for storage tank systems of equal type, age, and classification.

SECTION 6. AMENDATORY 17 O.S. 2011, Section 309, as amended by Section 10, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 309), is amended to read as follows:

Section 309. A. No person including but not limited to the owner or operator, employee or agent of such owner or operator, or transporter shall knowingly allow a release or suspicion of a release from a storage tank system to occur or continue to occur without reporting the release or suspicion of a release to the Corporation Commission within twenty-four (24) hours upon discovering such a release or information that suggests that a release has occurred.

B. The owner or operator of a storage tank system shall immediately take all reasonable corrective actions necessary to prevent a release or a threatened release of regulated substances from a storage tank system and to abate and remove any such releases subject to applicable federal and state requirements. The Corporation Commission shall require that any corrective action taken by a storage tank system owner or operator or authorized by the Commission shall be in compliance with all applicable state statutes and rules and federal laws and regulations for the protection of air quality and water quality and for the transportation and disposal of any waste.

C. If there is a release from a storage tank system, the Commission may:

1. Issue an administrative order stating the existence of an emergency and requiring that such action be taken as the Commission deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with the order immediately but on application to the

Commission shall be afforded a hearing within ten (10) days after receipt of the administrative order. On the basis of such hearing, the Commission shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the hearing provided for in this subsection may appeal to the Supreme Court as provided in Section 318 of Title 75 of the Oklahoma Statutes. Such appeal when docketed shall have priority over all cases pending on the docket; and

2. Require an owner, operator, or responsible person to submit investigation, remediation or other corrective action plans to the Petroleum Storage Tank Division of the Corporation Commission for preapproval prior to initiating such investigation, remediation, or other corrective action.

D. 1. The Commission may take corrective action if:

- a. an owner or operator of the storage tank system cannot be identified,
- b. an identified owner or operator cannot or will not comply with the order issued pursuant to subsection C of this section,
- c. an administrative or judicial proceeding on an order issued pursuant to subsection C of this section is pending and the Commission determines corrective action is necessary to protect the public health, safety and welfare or the environment until the administrative or judicial proceeding is resolved, or
- d. the Commission determines that the release constitutes a danger requiring immediate action to prevent, minimize or mitigate damage to the public health and welfare or the environment. Before taking an action under this paragraph, the Commission shall make all reasonable efforts, taking into consideration the urgency of the situation, to afford an owner or operator notice and hearing to take a corrective action and notify the owners or occupants of adjacent or affected real property as specified by Section 310 of this title.

2. The owner or operator is liable for the cost of any corrective action taken by the Commission pursuant to this

subsection, including the cost of investigating the release and administrative and legal expenses, if:

- a. the owner or operator has failed to take a corrective action required by the Commission and the Commission has taken the corrective action, or
- b. the Commission has taken corrective action in an emergency pursuant to subparagraph d of paragraph 1 of this subsection.

3. Reasonable and necessary expenses incurred by the Commission, the Oklahoma Leaking Underground Storage Tank Trust Fund, or the Oklahoma Leaking Underground Storage Tank Revolving Fund, in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered from the Indemnity Fund by application to the Commission with notice and hearing pursuant to Section 311 of this title. The Commission's certification of costs incurred is prima facie evidence that the costs incurred are reasonable and necessary. The Commission shall be entitled to apply for and receive payment from the Indemnity Fund upon any site upon which the Commission has taken corrective action. Costs incurred that are recovered under this subsection shall be deposited in the Corporation Commission Storage Tank ~~Regulation~~ Revolving Fund. Costs reimbursed by the Indemnity Fund for Oklahoma Leaking Underground Storage Tank Trust Fund or Oklahoma Leaking Underground Storage Tank Revolving Fund expenditures shall be deposited in the Oklahoma Leaking Underground Storage Tank Revolving Fund.

E. Any order issued by the Commission pursuant to this section shall not limit the liability of the owner or operator or both such owner or operator for any injury, damages, or costs incurred by any person as a result of the release. The owner or operator shall not avoid any liability, statutory environmental responsibility imposed by Section 301 et seq. of this title; or as a result of such release by means of a conveyance of any right, title or interest in real property; or by any indemnification, hold harmless agreement, or similar agreement.

1. This subsection does not:

- a. prohibit a person who may be liable from entering an agreement by which the person is insured, held

harmless, or indemnified for part or all of the liability,

- b. prohibit the enforcement of an insurance, hold harmless, or indemnification agreement, or
- c. bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

2. Except as otherwise provided by law, if there is more than one person liable, such persons shall be jointly liable for any injury, damages, or costs.

SECTION 7. AMENDATORY 17 O.S. 2011, Section 311, as amended by Section 13, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 311), is amended to read as follows:

Section 311. A. Any person who has been determined by the Corporation Commission to have violated any provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or any rule promulgated or order issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act shall be liable for a fine of not more than Ten Thousand Dollars (\$10,000.00) for each day that said violation continues.

B. 1. The amount of the fine shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the fine, the Commission shall include but not be limited to consideration of the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

2. All fines collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Petroleum Corporation Commission Storage Tank Consolidation Revolving Fund.

C. The payment, in full, of any fine, assessed pursuant to an administrative order, the completion of any corrective action taken for a release pursuant to an administrative order, and the otherwise compliance with an administrative order issued by the Commission

pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act for a release shall be full and complete satisfaction of the violation for which the administrative order was issued and shall preclude the assessment of any other administrative, civil or criminal penalty for the same known violation by any other agency of this state.

D. Any person who willfully and knowingly violates any provision of the Oklahoma Petroleum Storage Tank Consolidation Act or a rule, promulgated or order issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, upon conviction, shall be guilty of a misdemeanor and may be subject for each offense to a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment for a term not to exceed one (1) year or both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.

E. Any person who willfully and knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be filed, or required to be maintained pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant to this act, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant to the program shall be deemed guilty of a misdemeanor and, upon conviction, may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.

SECTION 8. AMENDATORY 17 O.S. 2011, Section 322, as last amended by Section 21, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 322), is amended to read as follows:

Section 322. A. 1. Effective July 1, 1998, there is hereby established the Petroleum Storage Tank Division within the Corporation Commission, which shall have separate budget activities and subactivities from any other division of the Commission.

2. The Petroleum Storage Tank Division shall be funded by available federal funds, grants, fees, and appropriations.

B. 1. The Petroleum Storage Tank Division shall be the sole division of the Commission with jurisdiction over releases and spills from petroleum storage tanks.

2. The acts and programs specified by this paragraph shall constitute a part of the Oklahoma Petroleum Storage Tank Consolidation Act and shall be subject to the jurisdiction of the Division. This jurisdiction shall include, but not be limited to, the administration of the following previous acts, programs, funds and inspections:

- a. the Oklahoma Petroleum Storage Tank ~~Consolidation~~ Regulation Act,
- b. the Oklahoma Petroleum Storage Tank Reform Act,
- c. the Oklahoma Petroleum Storage Tank Release Indemnity Fund Program,
- ~~e.~~ d. the Oklahoma Petroleum Storage Tank ~~Revolving~~ Release Environmental Cleanup Indemnity Fund,
- ~~d.~~ e. the Oklahoma Storage Tank Regulation Revolving Fund,
- f. the Oklahoma Leaking Underground Storage Tank Trust Fund,
- ~~e.~~ g. the Oklahoma Leaking Underground Storage Tank Trust Revolving Fund,
- ~~f.~~ h. Compliance and Inspection,
- ~~g.~~ i. Petroleum Storage Tank Registration, Licensing, and
- ~~h.~~ j. Antifreeze.

3. All positions in the Petroleum Storage Tank Division shall be unclassified. Those employees who are classified on the effective date of this act may elect to remain classified pursuant to Section 840-4.2 of Title 74 of the Oklahoma Statutes.

4. All rules promulgated and orders entered by the Oklahoma Corporation Commission prior to the effective date of this act related to the programs, funds and services of the Petroleum Storage Tank Division and shall remain in full force and effect until

overturned, amended, modified, revoked or repealed by the Corporation Commission and shall be enforced by the Petroleum Storage Tank Division.

C. 1. The Director of the Petroleum Storage Tank Division shall be appointed by the Director of Administration of the Corporation Commission. All other employees of the Petroleum Storage Tank Division shall be hired by the Director of the Petroleum Storage Tank Division.

2. The Director shall provide for the administration of the Petroleum Storage Tank Division and shall:

- a. develop the organizational framework of the Petroleum Storage Tank Division,
- b. define duties and set salaries of employees, to employ a sufficient number of employees to accomplish the duties and responsibilities of the programs, funds and services of the Petroleum Storage Tank Division, including but not limited to such assistants, chemists, geologists, hydrologists, storage tank professionals, engineers, administrative, clerical and technical personnel, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in the judgment and discretion of the Director shall be deemed necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives, responsibilities or statutory provisions relating to the Petroleum Storage Tank Division,
- c. establish internal policies and procedures for the proper and efficient administration of the Division,
- d. clearly delineate the duties and responsibilities of the various programs as prescribed by law within the jurisdiction of the Division,
- e. create and implement an internal coordinated management system among the Storage Tank Regulation Program and the Indemnity Fund,
- f. the Indemnity Fund Administrator and all other employees of the Indemnity Fund shall be hired by the

Director of the Petroleum Storage Tank Division of the Corporation Commission,

- g. Indemnity Fund employees shall be in the unclassified service and shall be exempt from the agency full-time-equivalent limit. All employees involved in reviewing and approving claims and in the approval and issuance of payments shall be employees of the Indemnity Fund under the supervision of the Director or Director's designee,
- h. the Director is authorized to employ temporary workers, contract labor, or to contract with a private company as may be prudent to properly administer the Indemnity Fund, and
- i. exercise all incidental powers which are necessary and proper to implement the purposes of the Division pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act and to implement all programs within the Division's jurisdiction.

SECTION 9. AMENDATORY 17 O.S. 2011, Section 324, as amended by Section 22, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 324), is amended to read as follows:

Section 324. A. Monies in the Petroleum Storage Tank Indemnity Fund shall only be expended for:

1. Reimbursements to eligible persons, unless duly assigned to another, for eligible expenses including the costs to identify and confirm the existence of a suspected release when so instructed by the Petroleum Storage Tank Division or when such expenses as determined by the Petroleum Storage Tank Division as necessary and appropriate to protect the health, safety and welfare of the public and the environment;

2. Reimbursement of actual costs incurred by the Division for the administration of the Indemnity Fund;

3. Purchase real property, personal property and easements in conjunction with corrective action efforts and/or the establishment of an alternative water supply as provided for in Section 306 of this title;

4. Reimbursement of actual costs incurred by the Petroleum Storage Tank Division for the administration of the Indemnity Fund and costs incurred for the purpose of evaluating claims and determining whether specific claims qualify for payment or reimbursement from the Indemnity Fund. Any costs incurred by and reimbursed to the Commission pursuant to the provisions of the Indemnity Fund shall not exceed the actual expenditures made by the Commission to implement the provisions of the Indemnity Fund; and

5. Payment of claims from the Indemnity Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement from the Indemnity Fund shall be paid with state monies.

B. The Director of the Petroleum Storage Tank Division shall hire an Administrator who shall administer the Indemnity Fund for the benefit of those persons determined to be eligible by the Administrator to receive total or partial reimbursement for:

1. The costs determined to be eligible by the Administrator in preparing a corrective action plan;

2. The cost of corrective action taken in response to an eligible release;

3. Payment of claims for property damage or personal injury resulting from an eligible release; and

4. Necessary costs incidental to the cost of a site assessment or the corrective action taken and for filing and obtaining reimbursement from the Indemnity Fund.

C. Reimbursements made to or for the benefit of eligible persons shall be exempt from The Oklahoma Central Purchasing Act.

D. 1. Costs incurred as a result of a release from a storage tank system owned or operated by this state are reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act. State-owned facilities shall take the proper corrective action as may be necessary to protect the environment from a leaking storage tank system. An agency of the state may also access said fund for reimbursement when it purchases property containing storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property.

2. Costs incurred as a result of a release from a storage tank system owned or operated by a Class I railroad or the federal government are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

E. The Indemnity Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section ~~25~~ 327.1 of this ~~act~~ title;

2. Interest attributable to investment of money in the Indemnity Fund; and

3. Money received by the Commission in the form of gifts, grants, reimbursements or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

F. 1. Except as provided in this section, the monies deposited in the Indemnity Fund shall at no time become monies of the state and shall not become part of the general budget of the Commission or any other state agency. Except as otherwise authorized by the Oklahoma Petroleum Storage Tank Consolidation Act, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. Monies from the Indemnity Fund may be used to pay or reimburse the Commission for the salary and indirect expense of any employee of the Petroleum Storage Tank Division while such employee is performing work involved in the regulation of storage tanks pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or the administration of programs pursuant to said act, including the development, review and approval of corrective action plans as required by the regulatory programs. The Indemnity Fund shall pay for all costs associated with administering the Compliance and Inspection Department including, but not limited to, automobile and travel costs, computer software and equipment, and other costs incurred in administering the Compliance and Inspection Department. The Commission shall cross-train the field staff of the Petroleum Storage Tank Division to perform inspections and related field activities for all programs within the Division and the Indemnity

Fund may reimburse the Division the actual costs of inspection services performed on behalf of the Indemnity Fund.

SECTION 10. AMENDATORY 17 O.S. 2011, Section 325, as amended by Section 23, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 325), is amended to read as follows:

Section 325. A. The Director of the Petroleum Storage Tank Division shall make a written report on an annual basis to the Corporation Commissioners, the Storage Tank Advisory Council, the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the following:

1. The total number of storage tank applicants requesting disbursement from the Indemnity Fund during the preceding year;
2. The total number of storage tank applicants receiving payment during the preceding year and total amount disbursed for such payments;
3. The average time frame for providing disbursements to applicants;
4. The total amount of funds needed to complete the corrective action and achieve closure of all release cases; and
5. Any other information requested by the Speaker of the House of Representatives or the President Pro Tempore of the Senate regarding the Indemnity Fund program.

B. The Oklahoma Tax Commission shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the amount of assessments collected for deposit to the Indemnity Fund and to the State Transportation Fund.

C. The Oklahoma Department of Transportation shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the expenditures made from the revenue received from the assessment levied pursuant to Section ~~25~~ 327.1 of this ~~act~~ title.

D. The Oklahoma Department of Environmental Quality shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate

detailing the expenditures made from the revenue received from the assessment levied pursuant to Section ~~25~~ 327.1 of this ~~act~~ title.

E. By December 1, 1998, and every year thereafter, the State Auditor and Inspector shall conduct an independent audit of the books, records, files and other such documents of the Corporation Commission pertaining to and which relate to the administration of the Petroleum Storage Tank Indemnity Fund. The audit shall include but shall not be limited to a review of agency compliance with state statutes regarding the Indemnity Fund, internal control procedures, adequacy of claim process expenditures from and debits of the Indemnity Fund regarding administration, personnel, operating and other expenses charged by the Corporation Commission; the duties performed in detail by agency personnel and Indemnity Fund personnel for which payment is made from the Indemnity Fund, and recommendations for improving claim processing, equipment needed for claim processing, internal control or structure for administering the Indemnity Fund; and such other areas deemed necessary by the State Auditor and Inspector.

F. The cost of the audit shall be borne by the Indemnity Fund.

G. Copies of the audit shall be submitted to the State Auditor and Inspector, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairs of the Appropriation Committees of both the Oklahoma House of Representatives and the Oklahoma State Senate.

SECTION 11. AMENDATORY Section 24, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 327), is amended to read as follows:

Section 327. A. Any Petroleum Storage Tank Indemnity Fund bill which would change the distribution of the assessment imposed pursuant to the provisions of Section ~~25~~ 327.1 of this ~~act~~ title and decrease the amount required to be deposited in the Petroleum Storage Tank Indemnity Fund shall require approval of not less than two-thirds (2/3) of the membership of each House of the Legislature to become law.

B. The provisions of subsection A of this section shall not apply to any Petroleum Storage Tank Indemnity Fund bill that appropriates monies from the Petroleum Storage Tank Indemnity Fund for purposes of increasing the costs of administering the Indemnity

Fund or related administrative functions of the Corporation Commission.

C. For purposes of this section, a "Petroleum Storage Tank Indemnity Fund bill" shall mean any bill which amends any or all of Section ~~30~~ 328 of this ~~act~~ title or any bill that impacts the distribution of the assessment set forth in Section ~~30~~ 328 of this ~~act~~ title.

SECTION 12. AMENDATORY Section 25, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 327.1), is amended to read as follows:

Section 327.1 A. Except as otherwise provided by this section, there shall be an assessment of one cent (\$0.01) per gallon upon the sale of each gallon of motor fuel used or consumed in this state. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to:

1. The Corporation Commission Revolving Fund pursuant to paragraph 1 of subsection C of this section;
2. The Petroleum Storage Tank Indemnity Fund pursuant to paragraphs 3 and 4 of subsection C of this section;
3. The State Transportation Fund pursuant to subparagraph b of paragraph 5 of subsection C of this section;
4. The Corporation Commission Storage Tank Revolving Fund pursuant to subparagraph a of paragraph 5 of subsection C of this section;
5. The Department of Environmental Quality Revolving Fund pursuant to paragraph 2 of subsection C of this section; and
6. The Weigh Station Improvement Revolving Fund pursuant to paragraph 3 of subsection C of this section.

The assessment shall be imposed at the time of the sale of the motor fuel and shall be precollected and remitted to the Oklahoma Tax Commission in accordance with Section 500.1 et seq. of Title 68 of the Oklahoma Statutes and as provided by Section ~~26~~ 327.2 of this ~~act~~ title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

- a. the state government,
- b. the federal government,
- c. Class I and Class II railroads, and
- d. sales for exportation outside of this state by a licensed exporter.

2. Exempt from the assessment imposed for purposes specified in paragraph 3 of subsection A of this section are sales of:

- a. motor fuel used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children, or in the operation of vehicles used in driver training,
- b. motor fuels used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- c. motor fuel to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- e. motor fuel used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel used in aircraft or in aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

C. The assessment imposed by subsection A of this section shall be distributed in the following manner:

1. The first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited into the Corporation Commission Revolving Fund created in Section 180.7 of Title 17 of the Oklahoma Statutes;

2. After deduction of the amount required pursuant to paragraph 1 of this subsection, eight percent (8%) of the remainder of the revenue collected during each fiscal year shall be deposited into the Department of Environmental Quality Revolving Fund created in Section 2-3-401 of Title 27A of the Oklahoma Statutes;

3. Until the total amount deposited since July 1, 2008, in the Weigh Station Improvement Revolving Fund totals Eighty-one Million Dollars (\$81,000,000.00), Five Hundred Thousand Dollars (\$500,000.00) per month of all revenue from the assessment received over the amount required by paragraphs 1 and 2 of this subsection shall be deposited in the Weigh Station Improvement Revolving Fund, created in Section 1167 of Title 47 of the Oklahoma Statutes and shall be used solely for the purpose of constructing weigh stations;

4. After the total amount deposited in the Weigh Station Improvement Revolving Fund totals Eighty-one Million Dollars (\$81,000,000.00), any revenue from the assessment received over the amounts required in paragraphs 1 and 2 of this subsection shall be deposited in the Petroleum Storage Tank Indemnity Fund ~~created in Section 22 of~~ as provided in this act section in amounts necessary to maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section; and

5. The balance of any revenue from the assessment remaining above the amount required in paragraphs 1 through 4 of this subsection shall be deposited as follows:

- a. the first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Corporation Commission Storage Tank Revolving Fund for the purpose of implementing the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and the rules promulgated thereunder, and
- b. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation

Fund and shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.

D. 1. If at any time the Petroleum Storage Tank Indemnity Fund falls below the required maintenance level on or before December 31, 2032, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.

2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the Administrator that the Indemnity Fund has fallen below the required maintenance level, shall notify the suppliers, licensed importers or other appropriate persons that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the supplier, licensed importer or other appropriate person shall also assess, for the specified period required by the Tax Commission, the sales of:

- a. motor fuel used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,
- b. motor fuels used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- c. motor fuel to counties and cities and towns,

- d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
- e. motor fuel used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel used in aircraft and aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited in the Corporation Commission Storage Tank Revolving Fund and the State Transportation Fund as provided in paragraph 5 of subsection C of this section.

SECTION 13. AMENDATORY Section 26, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 327.2), is amended to read as follows:

Section 327.2 A. It shall be the duty of every supplier, licensed importer or any other appropriate person under this act to precollect and remit any assessment so precollected pursuant to the provisions of this act and Section ~~25~~ 327.1 of this ~~act~~ title and make and submit an assessment collection report as required by this section.

B. 1. The assessment imposed pursuant to the provision of Section ~~25~~ 327.1 of this ~~act~~ title shall be collected and remitted to the Oklahoma Tax Commission at the same time and in the same manner as provided by law for the collection and remission of tax levies upon the sale of gasoline within this state. The basis for computation of the amount due shall be one hundred percent (100%) of the net gallonage reported to the Tax Commission for assessment.

2. Each supplier, licensed importer or other appropriate person shall make and submit for each calendar month that the assessment is imposed an itemized and verified assessment collection report showing:

- a. the name of the supplier, licensed importer or other appropriate person collecting the assessment,

- b. the total amount of motor fuel, diesel fuel and blending materials sold during the preceding month,
- c. the total amount of assessments collected by the supplier, licensed importer or other appropriate person during the preceding month, and
- d. such further information the Tax Commission may require to enable it to compute correctly and collect the assessment made pursuant to this act.

The reports shall be filed at the same time and in like manner as required for gasoline tax reports pursuant to this act.

C. Every supplier, licensed importer or other appropriate person shall keep and preserve suitable records of the gross sales of motor fuel, diesel fuel and blending materials, the assessment collected and such other pertinent records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of the reports. All the records shall be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date. The records shall be open for examination by employees of the Tax Commission, the Corporation Commission or the Oklahoma Department of Transportation in the performance of their duties pursuant to law.

D. Any supplier, licensed importer or other appropriate person who fails to comply with any provisions of this section shall pay a penalty imposed by the Tax Commission. Any monies collected for payment of the penalty shall be deposited in the same manner as the assessments pursuant to the provisions of subsection B of ~~Section 25 of this act~~ section. The penalty shall be equal to ten percent (10%) of the gross amount of the assessments received by the supplier, licensed importer or other appropriate person for the report period that the supplier, licensed importer or other appropriate person failed to timely mail the required report or remit any monies collected pursuant to the provisions of this act.

E. The Tax Commission shall keep a separate accounting of all the monies received pursuant to this section and together with any interests and penalties thereon shall deposit such monies monthly as provided in subsection B of ~~Section 25 of this act~~ section.

SECTION 14. AMENDATORY Section 36, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 341.3), is amended to read as follows:

Section 341.3 If any section, paragraph, sentence, or phrase of ~~Sections 33 through 46~~ Section 301 et seq. of this ~~act~~ title shall be declared unconstitutional or void, for any reason, by any court of final jurisdiction, such decision shall not in any way invalidate or affect any other section, paragraph, sentence, or phrase of this act, but the same shall continue in full force and effect.

SECTION 15. AMENDATORY Section 39, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 344), is amended to read as follows:

Section 344. A. Any dealer in or manufacturer or other person in possession of regulated substances who refuses to admit an inspector upon the premises to perform the duties of the inspector shall, for each refusal to admit on his or her premises, or obstruction offered to an inspector, be guilty of a misdemeanor and be subject to a fine of Five Hundred Dollars (\$500.00) per day per violation and imprisonment for ninety (90) days, or both, for each offense.

B. Any person who owns or has custody of any measuring device who shall refuse to admit employees of the Corporation Commission upon his or her premises so far as it may be necessary for the performance of their duties, or shall obstruct such employees in the performance of their duties, shall for each separate offense be guilty of a misdemeanor and subject to a fine of One Hundred Dollars (\$100.00).

SECTION 16. AMENDATORY Section 43, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 346.2), is amended to read as follows:

Section 346.2 The provisions of Section ~~33~~ 341 of this ~~act~~ title shall not apply to regulated substances brought into this state in transit for shipment to and consumption in other states or territories.

SECTION 17. AMENDATORY Section 45, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 346.4), is amended to read as follows:

Section 346.4 Any person who owns or has custody or control of any measuring device which does not meet or comply with the tests, standards, specifications and rules of the Corporation Commission or any person who tampers with, alters, defaces or destroys any sign, label, seal or lock mentioned in Section ~~41~~ 346 of this ~~act~~ title, without having first secured an order permitting the removal of such sign, label, seal or lock, as provided in Section ~~41~~ 346 of this ~~act~~ title, or any person who violates any rule or order of the Commission promulgated under authority of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Two Hundred Fifty Dollars (\$250.00), administrative penalties as set forth in Section 311 of ~~Title 17 of the Oklahoma Statutes~~ this title, and/or punitive damages as set forth in Section 312 of ~~Title 17 of the Oklahoma Statutes~~ this title; and each day on which any person, firm or corporation violates any of such orders or rules shall be deemed a separate offense. The court may order restitution for any actual damages incurred.

SECTION 18. AMENDATORY Section 51, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.3), is amended to read as follows:

Section 348.3 Before any antifreeze shall be sold, exposed for sale or held with intent to sell within this state, a sample thereof must be analyzed pursuant to standards established by the Oklahoma Corporation Commission and a certified analysis submitted to the Petroleum Storage Tank Division for approval with the initial or annual permit fee application. Upon the initial application of the manufacturer, packer or distributor, and upon the payment of a fee of One Hundred Dollars (\$100.00) for each brand of antifreeze submitted, the Corporation Commission shall approve the analysis of the antifreeze submitted and, if it meets the standards of the Corporation Commission, and is not in violation of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title, the Corporation Commission shall issue the applicant an annual written permit, with an official permit number, authorizing the sale of such antifreeze in this state for one (1) fiscal year, July 1 to June 30, in which inspection fee is paid. However, upon approval of an application for renewal of a permit, the fee shall not exceed One Hundred Dollars (\$100.00). The original permit and renewal issued by the Corporation Commission shall bear the same number and shall not be transferable. If the Corporation Commission shall at a later date find that the product to be sold, exposed for sale or held with intent to sell has been materially altered, without the written permission of the

Corporation Commission, adulterated, or a change has been made in the name, brand or trademark under which the antifreeze is sold, or it violated the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title, the Corporation Commission shall notify the applicant and the permit shall be canceled.

SECTION 19. AMENDATORY Section 52, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.4), is amended to read as follows:

Section 348.4 The Petroleum Storage Tank Division of the Oklahoma Corporation Commission shall enforce the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title by certification, inspections, chemical analysis or any other appropriate methods. All samples for inspection or analysis shall be taken from stocks in this state or intended for sale in this state, or the Corporation Commission through its agents shall require the manufacturer or distributor applying for a permit for antifreeze sale to supply a certified analysis of the antifreeze with the permit application. The Corporation Commission, through its agents, shall have free access by legal means during business hours to all places of business, buildings, vehicles, cars and vessels used in the manufacture, transportation, sale or storage of any antifreeze, and it may open by legal means a box, carton, parcel, or package containing or supposed to contain any antifreeze and may take therefrom samples for analysis.

SECTION 20. AMENDATORY Section 53, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.5), is amended to read as follows:

Section 348.5 The Oklahoma Corporation Commission shall have the authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title.

SECTION 21. AMENDATORY Section 54, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.6), is amended to read as follows:

Section 348.6 The Petroleum Storage Tank Division of the Oklahoma Corporation Commission may furnish upon request a list of the brands and trademarks of antifreeze permitted and permit numbers issued by the Corporation Commission during the calendar year which

have been found to be in accord with Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title.

SECTION 22. AMENDATORY Section 55, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.7), is amended to read as follows:

Section 348.7 No advertising literature relating to any antifreeze sold or to be sold in this state shall contain any statement that the antifreeze advertised for sale has been approved by the Oklahoma Corporation Commission unless the antifreeze has been permitted by the Corporation Commission and found to meet the standards of the Corporation Commission and not to be in violation of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title, in which event such statement together with the permit number of the wholesaler or distributor may be contained in any labeling and advertising literature where such brand or trademark or antifreeze is being advertised for sale.

SECTION 23. AMENDATORY Section 56, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.8), is amended to read as follows:

Section 348.8 All fees collected by the Oklahoma Corporation Commission under the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title shall be deposited with the State Treasurer to the credit of the Corporation Commission Revolving Fund.

SECTION 24. AMENDATORY Section 57, Chapter 27, O.S.L. 2018 (17 O.S. Supp. 2018, Section 348.9), is amended to read as follows:

Section 348.9 Any person or persons violating the provisions of Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for ninety (90) days or both for each offense. In addition thereto, the Corporation Commission is hereby authorized to punish any person or persons violating the rules and regulations adopted by the Commission pursuant to Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title for contempt, and any person found guilty of violating the rules and regulations of the Corporation Commission adopted pursuant to Sections ~~48~~ 348 through ~~57~~ 348.9 of this ~~act~~ title may be fined

any amount not exceeding Five Hundred Dollars (\$500.00) for each offense.

SECTION 25. This act shall become effective July 1, 2019.

SECTION 26. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 7th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 11th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____