

HOUSE BILL 81

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 211, Part 1; Title 68, Chapter 212 and Title 68, Chapter 215, Part 1, relative to regulation of petroleum underground storage tanks and waste.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-215-104(7), is amended by inserting the phrase "or cause to be submitted" after "Submit".

SECTION 2. Tennessee Code Annotated, Section 68-215-106, is amended by adding a new subsection (f):

(f) It is unlawful for any person to place, or cause to be placed, petroleum substances in a petroleum underground storage tank or to dispense petroleum from a petroleum underground storage tank when the owner of the tank is required to notify the commissioner under subsection (a) or (b) and the owner has not notified the commissioner of the existence or ownership of the tank. This subsection (f) applies even if no physical notice or tag is placed on the dispenser or fill port or no notice is placed on the department web site pursuant to subsection (c).

SECTION 3. Tennessee Code Annotated, Section 68-215-107(e), is amended by adding the following language as a new, appropriately designated subdivision:

() Bring suit in the name of the department for:

(A) Any violation of this chapter, rules established pursuant to this chapter, and orders of the commissioner or board seeking any remedy as provided in this chapter, such rule, or order; and

(B) Any other statutory or common law remedy available.

SECTION 4. Tennessee Code Annotated, Section 68-215-109(c), is amended by deleting the following language:

All notices related to such fees that are sent to the tank owner or operator shall also be sent simultaneously to any owner of an interest in the petroleum site on which the tanks are located who has maintained a registration for the tanks pursuant to § 68-215-130.

SECTION 5. Tennessee Code Annotated, Section 68-215-109, is amended by adding the following language as a new subsection (g):

(g)

(1) The tank owner or operator may file with the commissioner a written petition requesting a refund of the annual fee paid for the current annual billing cycle or a waiver or reduction of the penalties associated with such annual fee that would otherwise accrue pursuant to this section, or both. At the commissioner's sole discretion, the commissioner may refund the annual fee or waive or reduce penalties associated with such fee, or both, if:

(A) The annual fee notice was issued to the tank owner or operator subsequent to approval of an application for permanent closure of underground storage tanks by the commissioner;

(B) In the commissioner's opinion the refund is in the best interest of the state; and

(C) The tank was:

(i) Empty for temporary closure as defined by the board from the beginning of the applicable annual billing cycle until permanent closure; and

(ii) Permanently closed during the applicable annual billing cycle.

(2) This subsection (g) does not authorize the commissioner to refund annual fees other than the annual fee paid for the current annual billing cycle as provided in this subsection (g) or to waive or reduce penalties associated with any unpaid annual fee except as provided in subsection (f) and this subsection (g).

SECTION 6. Tennessee Code Annotated, Section 68-215-110, is amended by deleting subsection (b) in its entirety and substituting instead:

(b) All fees, civil penalties, and damages collected pursuant to this chapter shall be deposited in the fund. Any deposits to the fund that would result in the unobligated balance of the fund exceeding fifty million dollars (\$50,000,000) shall be transferred to the highway fund.

SECTION 7. Tennessee Code Annotated, Section 68-215-110, is amended by deleting subsection (c) in its entirety and substituting instead the following language:

(c) No part of the fund shall revert to the general fund, but shall be carried forward until expended in accordance with this chapter.

SECTION 8. Tennessee Code Annotated, Section 68-215-111(f)(4), is amended by designating the existing language as subdivision (A) and adding the following language as a new subdivision (B):

(B) Notwithstanding subdivision (f)(4)(A), the fund shall be responsible for up to a maximum of two million dollars (\$2,000,000) of cleanup costs for sites still undergoing corrective action on July 1, 2015, and releases that occur on or after July 1, 2015. The sum of the deductible and the maximum reimbursement shall not exceed two million dollars (\$2,000,000). The fund shall be responsible for cleanup of contamination due to releases from petroleum underground storage tanks on a per-site, per-occurrence basis.

SECTION 9. Tennessee Code Annotated, Section 68-215-130, is amended by deleting the section in its entirety.

SECTION 10. Tennessee Code Annotated, Section 68-215-113, is amended by deleting the section in its entirety.

SECTION 11. Tennessee Code Annotated, Section 68-212-107(e), is amended by deleting the subsection in its entirety and substituting instead the following:

(e) The board is empowered and authorized to act as the board of appeals to review actions of the commissioner arising from the implementation of this part in accordance with § 68-212-113. For the purposes of this part, eight (8) members constitute a quorum, and a quorum may act for the board in all matters.

SECTION 12. Tennessee Code Annotated, Section 68-212-215(e), is amended by inserting the language “as provided in § 68-212-113” immediately following the language “to hear appeals”.

SECTION 13. Tennessee Code Annotated, Section 68-211-111(a)(1), is amended by deleting the language “nonvoting members” in subdivision (A)(xiii) and substituting instead the language “voting members”.

SECTION 14. Tennessee Code Annotated, Section 68-211-111(e), is amended by inserting the language “petroleum underground storage tank or” immediately preceding the language “solid waste matters”.

SECTION 15. Tennessee Code Annotated, Section 68-211-111(f), is amended by inserting the language “and title 68, chapter 215” at the end of the sentence.

SECTION 16. Tennessee Code Annotated, Section 68-211-111(g), is amended by deleting the language “six (6) regular meetings” and substituting instead the language “four (4) regular meetings”.

SECTION 17. This act shall take effect July 1, 2015, the public welfare requiring it.