

AN ACT

relating to the financial responsibility requirements applicable to owners or operators of underground storage tanks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.352, Water Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (e-1), (e-2), (g), (h), and (i) to read as follows:

(d) A [~~An owner or operator of an underground storage tank may submit the~~] registration certificate issued by the commission [~~to the owner or operator~~] under Section 26.346:

(1) may be submitted by an owner or operator of an underground storage tank [of this code] to the United States Environmental Protection Agency as evidence of the owner's or operator's eligibility for funds for any expense for corrective action incurred for confirmed releases initially discovered and reported to the commission on or before December 22, 1998; and

(2) is not acceptable evidence of financial responsibility for:

(A) an underground storage tank that contains a petroleum substance other than:

(i) a petroleum product; or

(ii) spent oil or hydraulic fluid if the tank is located at a vehicle service and fueling facility and is used as part of the operations of that facility; or

1           (B) any expenses for corrective action for  
2 confirmed releases initially discovered and reported to the  
3 commission after December 22, 1998.

4           (e) An owner or operator of an underground storage tank used  
5 for storing petroleum products shall submit annually with the  
6 compliance certification form required by Section 26.346 proof that  
7 the owner or operator maintains evidence of financial  
8 responsibility as required by Subsection (a) [A registration  
9 certificate issued under Section 26.346 is not acceptable evidence  
10 of financial responsibility for:

11           ~~[(1) an underground storage tank that contains a~~  
12 ~~petroleum substance other than:~~

13                   ~~[(A) a petroleum product; or~~

14                   ~~[(B) spent oil or hydraulic fluid if the tank is~~  
15 ~~located at a vehicle service and fueling facility and is used as~~  
16 ~~part of the operations of that facility; or~~

17           ~~[(2) any expenses for corrective action for confirmed~~  
18 ~~releases initially discovered and reported to the commission after~~  
19 ~~December 22, 1998].~~

20           (e-1) An insurance company or other entity that provides  
21 insurance coverage or another form of financial assurance to an  
22 owner or operator of an underground storage tank for purposes of  
23 this section shall notify the commission if the insurance coverage  
24 or other financial assurance is canceled or not renewed. The  
25 insurance company or other entity shall mail, fax, or e-mail notice  
26 not later than the 30th day after the date the coverage terminates.  
27 The Texas Department of Insurance shall adopt rules to implement

1 and enforce this subsection.

2 (e-2) The owner or operator of a tank for which insurance  
3 coverage or other financial assurance has terminated shall dispose  
4 of any regulated substance in the tank at a properly licensed  
5 facility not later than the 90th day after the coverage terminates,  
6 unless the owner or operator provides the commission proof that the  
7 owner or operator maintains evidence of financial responsibility as  
8 required under Subsection (a).

9 (f) The commission shall enforce this section and may impose  
10 administrative and civil penalties on the owners or operators of  
11 underground storage tanks if acceptable evidence of financial  
12 responsibility is not maintained. The amount of an administrative  
13 or civil penalty imposed under this subsection may not be less than  
14 the annual cost, as estimated by the commission, of maintaining the  
15 minimum insurance coverage required for the tank as determined  
16 under Subsection (c).

17 (g) An owner or operator commits an offense if the owner or  
18 operator operates an underground storage tank knowing that  
19 acceptable evidence of financial responsibility does not exist and  
20 is subject to criminal prosecution as provided by Subchapter F.

21 (h) The commission may seek injunctive relief in the  
22 district courts of Travis County to force the temporary or  
23 permanent closure of an underground storage tank for which  
24 acceptable evidence of financial responsibility is not maintained.

25 (i) The commission may order an owner or operator of an  
26 underground storage tank that fails to maintain acceptable evidence  
27 of financial responsibility to place the tank out of service in the

1 same manner that the commission may issue such an order under  
2 Section 26.3475(e).

3 SECTION 2. Section 26.352(e), Water Code, as amended by  
4 this Act, applies only to a compliance certification form submitted  
5 to the Texas Commission on Environmental Quality on or after the  
6 effective date of this Act. A compliance certification form  
7 submitted before the effective date of this Act is governed by the  
8 law in effect at the time the form was submitted, and that law is  
9 continued in effect for that purpose.

10 SECTION 3. The change in law made by Section 26.352(e-1),  
11 Water Code, as added by this Act, applies only to an insurance  
12 policy or other form of financial assurance that is terminated on or  
13 after January 1, 2008. A policy or other form of financial  
14 insurance that is terminated before that date is governed by the law  
15 in effect at the time the policy or other financial assurance is  
16 terminated, and that law is continued in effect for that purpose.

17 SECTION 4. Section 26.352(f), Water Code, as amended by  
18 this Act, and Section 26.352(i), Water Code, as added by this Act,  
19 apply only to a failure to maintain evidence of financial  
20 responsibility that occurs on or after the effective date of this  
21 Act. A failure to maintain evidence of financial responsibility  
22 that occurs before the effective date of this Act is governed by the  
23 law in effect at the time the failure occurred, and that law is  
24 continued in effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1956 was passed by the House on April 12, 2007, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1956 was passed by the Senate on May 9, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor