

By: Duncan

S.B. No. 1692

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the reimbursement from the Petroleum Storage Tank
3 Remediation Account and relating to the fee on delivery of certain
4 petroleum products.

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

6 SECTION 1. Section 26.351(f), Water Code, is amended to
7 read as follows:

8 (f) The person performing corrective action under this
9 section, if the release was reported to the commission on or before
10 December 22, 1998, shall meet the following deadlines:

11 (1) a complete site assessment and risk assessment
12 (including, but not limited to, risk-based criteria for
13 establishing target concentrations), as determined by the
14 executive director, must be received by the agency no later than
15 September 1, 2002;

16 (2) a complete corrective action plan, as determined
17 by the executive director and including, but not limited to,
18 completion of pilot studies and recommendation of a cost-effective
19 and technically appropriate remediation methodology, must be
20 received by the agency no later than September 1, 2003. The person
21 may, in lieu of this requirement, submit by this same deadline a
22 demonstration that a corrective action plan is not required for the
23 site in question under commission rules. Such demonstration must
24 be to the executive director's satisfaction;

1 (3) for those sites found under Subdivision (2) to
2 require a corrective action plan, that plan must be initiated and
3 proceeding according to the requirements and deadlines in the
4 approved plan no later than March 1, 2004;

5 (4) for sites which require either a corrective action
6 plan or groundwater monitoring, a comprehensive and accurate annual
7 status report concerning those activities must be submitted to the
8 agency;

9 (5) for sites which require either a corrective action
10 plan or groundwater monitoring, all deadlines set by the executive
11 director concerning the corrective action plan or approved
12 groundwater monitoring plan shall be met; and

13 (6) for sites that require either a corrective action
14 plan or groundwater monitoring, have met all other deadlines under
15 this subsection, and have submitted annual progress reports that
16 demonstrate progress toward meeting closure requirements, a site
17 closure request must be submitted to the executive director no
18 later than [~~September 1, 2007~~] September 1, 2009. The request must
19 be complete, as judged by the executive director.

20 SECTION 2. Section 26.3573(r-1), Water Code, is amended to
21 read as follows:

22 (r-1) In this subsection, "state-lead program" means the
23 petroleum storage tank state-lead program administered by the
24 commission. The executive director shall grant an extension for
25 corrective action reimbursement to a person who is an eligible
26 owner or operator under Section 26.3571. The petroleum storage
27 tank remediation account may be used to reimburse an eligible owner

1 or operator for corrective action performed under an extension
2 before [~~August 31, 2007~~] August 31, 2009. Not later than [~~July 1,~~
3 ~~2007~~] July 1, 2009, an eligible owner or operator who is granted an
4 extension under this subsection may apply to the commission in
5 writing using a form provided by the commission to have the site
6 subject to corrective action placed in the state-lead program. The
7 eligible owner or operator must agree in the application to allow
8 site access to state personnel and state contractors as a condition
9 of placement in the state-lead program under this subsection. On
10 receiving the application for placement in the state-lead program
11 under this subsection, the executive director by order shall place
12 the site in the state-lead program until the corrective action is
13 completed to the satisfaction of the commission. An eligible owner
14 or operator of a site that is placed in the state-lead program under
15 this subsection is not liable to the commission for any costs
16 related to the corrective action.

17 SECTION 3. Section 26.3573(s), Water Code, is amended to
18 read as follows:

19 (s) The petroleum storage tank remediation account may not
20 be used to reimburse any person for corrective action contained in a
21 reimbursement claim filed with the commission after [~~March 1, 2008~~]
22 March 1, 2010.

23 SECTION 4. Section 26.3574(b), Water Code, is amended to
24 read as follows:

25 (b) A fee is imposed on the delivery of a petroleum product
26 on withdrawal from bulk of that product as provided by this
27 subsection. Each operator of a bulk facility on withdrawal from

1 bulk of a petroleum product shall collect from the person who orders
2 the withdrawal a fee in an amount determined as follows:

3 (1) [~~\$12.50 for each delivery into a cargo tank having~~
4 ~~a capacity of less than 2,500 gallons for the state fiscal year~~
5 ~~beginning September 1, 2001, and the state fiscal year beginning~~
6 ~~September 1, 2002, and \$10.00 for each delivery into a cargo tank~~
7 ~~having a capacity of less than 2,500 gallons for the state fiscal~~
8 ~~year beginning September 1, 2003, through the state fiscal year~~
9 ~~ending August 31, 2007,]~~ \$5.00 for each delivery into a cargo tank
10 having a capacity of less than 2,500 gallons for the state fiscal
11 year beginning September 1, 2007 and every fiscal year thereafter.

12 (2) [~~\$25.00 for each delivery into a cargo tank having~~
13 ~~a capacity of 2,500 gallons or more but less than 5,000 gallons for~~
14 ~~the state fiscal year beginning September 1, 2001, and the state~~
15 ~~fiscal year beginning September 1, 2002, and \$20.00 for each~~
16 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~
17 ~~more but less than 5,000 gallons for the state fiscal year beginning~~
18 ~~September 1, 2003, through the state fiscal year ending August 31,~~
19 ~~2007,]~~ \$10.00 for each delivery into a cargo tank having a capacity
20 of 2,500 gallons or more but less than 5,000 gallons for the state
21 fiscal year beginning September 1, 2007 and every fiscal year
22 thereafter.

23 (3) [~~\$37.50 for each delivery into a cargo tank having~~
24 ~~a capacity of 5,000 gallons or more but less than 8,000 gallons for~~
25 ~~the state fiscal year beginning September 1, 2001, and the state~~
26 ~~fiscal year beginning September 1, 2002, and \$30.00 for each~~
27 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~

1 ~~more but less than 8,000 gallons for the state fiscal year beginning~~
2 ~~September 1, 2003, through the state fiscal year ending August 31,~~
3 ~~2007;]~~ \$15.00 for each delivery into a cargo tank having a capacity
4 of 5,000 gallons or more but less than 8,000 gallons for the state
5 fiscal year beginning September 1, 2007 and every fiscal year
6 thereafter.

7 (4) [~~\$50.00 for each delivery into a cargo tank having~~
8 ~~a capacity of 8,000 gallons or more but less than 10,000 gallons for~~
9 ~~the state fiscal year beginning September 1, 2001, and the state~~
10 ~~fiscal year beginning September 1, 2002; and \$40.00 for each~~
11 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
12 ~~more but less than 10,000 gallons for the state fiscal year~~
13 ~~beginning September 1, 2003, through the state fiscal year ending~~
14 ~~August 31, 2007;]~~ \$20.00 for each delivery into a cargo tank having
15 a capacity of 8,000 gallons or more but less than 10,000 gallons for
16 the state fiscal year beginning September 1, 2007 and every fiscal
17 year thereafter; and

18 (5) [~~a \$25.00 fee for each increment of 5,000 gallons~~
19 ~~or any part thereof delivered into a cargo tank having a capacity of~~
20 ~~10,000 gallons or more for the state fiscal year beginning~~
21 ~~September 1, 2001, and the state fiscal year beginning September 1,~~
22 ~~2002; and \$20.00 for each increment of 5,000 gallons or any part~~
23 ~~thereof delivered into a cargo tank having a capacity of 10,000~~
24 ~~gallons or more for the state fiscal year beginning September 1,~~
25 ~~2003, through the state fiscal year ending August 31, 2007.]~~ \$10.00
26 for each increment of 5,000 gallons or any part thereof delivered
27 into a cargo tank having a capacity of 10,000 gallons or more for

1 the state fiscal year beginning September 1, 2007 and every fiscal
2 year thereafter.

3 SECTION 5. Section 26.361, Water Code, is amended to read as
4 follows:

5 EXPIRATION OF REIMBURSEMENT PROGRAM. Notwithstanding any
6 other provision of this subchapter, the reimbursement program
7 established under this subchapter expires [~~September 1, 2008~~]
8 September 1, 2010. On or after [~~September 1, 2008~~] September 1,
9 2010, the commission may not use money from the petroleum storage
10 tank remediation account to reimburse an eligible owner or operator
11 for any expenses of corrective action or to pay the claim of a
12 person who has contracted with an eligible owner or operator to
13 perform corrective action.

14 SECTION 6. The Texas Commission on Environmental Quality
15 may adopt rules implementing the changes in law effected by this
16 Act.

17 SECTION 7. This Act takes effect September 1, 2007.