

WORKING DRAFT

SENATE FILE NO. _____

Storage tank remediation program.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to environmental quality; amending the
2 underground storage tank program name; limiting the
3 definition of "underground storage tank"; expanding
4 rulemaking authority; modifying the deadline for tank
5 registration; modifying insurance requirements; amending
6 the tank operation requirements; expanding notice
7 requirements; establishing a late payment penalty;
8 expanding the limits of the corrective action account;
9 repealing the requirement that the state attorney general
10 dismiss certain suits and the release of certain
11 obligations; and providing for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

1 **Section 1.** W.S. 35-11-1414(a) and (b),
2 35-11-1415(a) (ix) (D) (I) and (II), (N) and by creating new
3 subparagraphs (O) through (Q), 35-11-1419(a) (intro), (ix)
4 by creating new paragraph (x) and by renumbering paragraph
5 (x) as (xi), 35-11-1420(a) (intro) and (b), 35-11-1422(b)
6 and (e), 35-11-1424(h) (ii), 35-11-1425, 39-17-103(a) (ii)
7 and 39-17-203(a) (ii) are amended to read:

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9 **35-11-1414. Short title; purpose; department report.**

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11 (a) This article is known and may be cited as the
12 ~~"Water Pollution from Underground Storage Tanks Corrective~~
13 ~~Action Act of 1990"~~ "Storage Tank Act of 2007."

14

15 (b) The legislature recognizes the threat to the
16 public health, safety, welfare and the environment caused
17 by pollution to soil and water from underground and
18 aboveground storage tanks. The purpose of this article is
19 to take primacy of the underground storage tank program and
20 to provide funding to take corrective actions at sites
21 contaminated by underground storage tanks and aboveground
22 storage tanks.

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24 **35-11-1415. Definitions.**

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2 (a) As used in this article:

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4 (ix) "Underground storage tank" means and
 5 includes any one (1) or combination of underground storage
 6 tanks, including underground pipes connected thereto, used
 7 to contain an accumulation of regulated substances, and the
 8 volume of which, including the volume of the underground
 9 pipes connected thereto, is ten percent (10%) or more
 10 beneath the surface of the ground, but does not include:

11

12 (D) A pipeline facility, including
 13 gathering lines, regulated under:

14

15 (I) The ~~Natural Gas Pipeline Safety~~
 16 ~~Act of 1968~~ Pipeline Safety Improvement Act of 2002;

17

18 (II) The Hazardous Liquid Pipeline
 19 Safety Act of ~~1979~~ 1995;

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21 (N) Emergency or overflow underground
 22 storage tanks~~;~~

23

1 (O) An underground storage tank system
2 holding hazardous wastes listed or identified under
3 Subtitle C of the federal Solid Waste Disposal Act or a
4 mixture of such hazardous waste and other regulated
5 substances;

6
7 (P) A wastewater treatment tank system that
8 is part of a wastewater treatment facility regulated under
9 section 307(b) or 402 of the federal Clean Water Act;

10
11 (Q) Any equipment or machinery that
12 contains regulated substances for operational purposes such
13 as hydraulic lift tanks and electrical equipment tanks.

14
15 **35-11-1419. Tank registration; proof of insurance.**

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17 (a) ~~On or before July 1 of each year~~ After each new
18 installation or modification of a regulated storage tank
19 system ~~either~~ the owner ~~or operator~~ of a tank shall
20 register the tank with the department on forms developed
21 and furnished by the department. The registration form
22 shall be submitted under oath or affirmation. The forms
23 shall include but not be limited to:

24

1 (ix) ~~Whether~~ Proof that the owner ~~or operator~~ of
2 the tank has insurance or other types of financial
3 assurance ~~covering corrective action costs and third party~~
4 ~~damages, the amount of the policy coverage, the period of~~
5 ~~time covered and a copy of the insurance certificate in~~
6 ~~effect~~ to cover at least thirty thousand dollars
7 (\$30,000.00) as specified in W.S. 35-11-1428(c)(i); and

8
9 (x) Proof as required by federal law that an owner of
10 more than one hundred (100) underground storage tanks
11 anywhere in the United States has insurance, or other
12 environmental pollution financial responsibility
13 instrument, indicating at least two million dollars
14 (\$2,000,000.00) in liability protection for releases
15 occurring from any of those regulated tanks; and

16
17 ~~(x)~~ (xi) Other information as may be required by
18 rules and regulations.

19
20 **35-11-1420. Tank notification required; change of**
21 **owner; installation requirements; inspections.**

22
23 (a) In the event of ~~transferral of tank ownership~~ the
24 transfer of any tank to a different owner, notification of

1 the transfer shall be provided to the department by the new
2 ~~or and former owner owners. In the event a new operator~~
3 ~~takes control of, or responsibility for, a tank,~~
4 ~~notification shall be provided to the department by the new~~
5 ~~or former operator.~~ Such notifications shall be made on
6 forms developed and provided by the department and shall
7 include:

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9 (b) No person shall install or substantially modify, or
10 cause to be installed or substantially modified, any new or
11 replacement tank without thirty (30) days prior
12 notification to the department. The department shall within
13 ten (10) days of completion, inspect the site or have the
14 site inspected by a qualified state, local government or
15 private inspector. No tank shall be operated until the
16 department determines the installation or modification
17 meets the applicable standards and the department has
18 issued a written inspection letter to the tank owner
19 stating that the facility, as constructed or modified,
20 meets state standards. If the department has not inspected
21 the tank within the 30 day notification period, the tank
22 may be operated without written notification of the
23 department until the tank is inspected.

24

1 **35-11-1422. Right of entry; inspection.**

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3 (b) A duplicate sample taken by or for the state for
4 testing shall be provided to the tank owner ~~or operator~~
5 ~~unless waived~~ if requested by the owner ~~or operator~~. A
6 duplicate copy of the analytical report from the department
7 pertaining to the samples taken shall be provided as soon
8 as practicable to the tank owner ~~or operator~~.

9

10 (e) The department shall give a minimum of ~~one (1)~~
11 seven (7) working ~~day's~~ days notice prior to an
12 investigation unless an emergency exists.

13

14 **35-11-1424. Corrective action account created; use of**
15 **monies; cost recovery.**

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17 (h) The state has a right of subrogation to any
18 insurance policies in existence at the time of the release
19 to the extent of any rights the owner ~~or operator~~ may have
20 had under that policy. This right of subrogation shall
21 apply regardless of the ~~owner or operator's~~ owner's
22 eligibility to use corrective action account monies under
23 subsection (d) of this section. In implementing this
24 section the department shall:

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(ii) Notify all insurance companies which have been identified to the department pursuant to W.S. 35-11-1419 and may have issued insurance policies that provide ~~or may provide~~ coverage for contamination from tanks and request copies of any such policies. In notifying insurance companies the department shall provide the insurance company with the name of all known owners and operators, past and present, and the legal description of the site upon which the tank is or was located. The department notification shall require each insurance company to notify the department whenever there is a change in the insurance policy, including cancellation.

35-11-1425. Tank fee; deposit into corrective action account; late fee.

(a) On or before ~~July~~January 1 of each year ~~either~~ the owner ~~or operator~~ of a tank shall pay a fee to the department of two hundred dollars (\$200.00) per tank owned, or operated, except ~~either~~ the owner ~~or operator~~ of an aboveground storage tank subject to this section that holds five thousand (5,000) gallons or less shall pay a fee of

1 fifty dollars (\$50.00) per tank owned, ~~or operated~~. This
2 fee shall be deposited in the corrective action account.

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4 (b) On April 1 of each year the department may assess
5 a late payment fee of one hundred dollar (\$100.00) per tank
6 or contaminated site against any owner who has not paid the
7 annual fee required pursuant to subsection (a) of this
8 section. This late fee shall be paid by the owner and
9 shall be in addition to the annual fee required pursuant to
10 subsection (a) of this section and shall be deposited in
11 the department's corrective action account.

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13 (c) The change from July 1 to January 1 for the due
14 date of storage tank fees shall be revenue neutral. The
15 department shall collect one half (1/2) of the annual fee
16 on July 1, 2007 and shall collect the full annual fee on
17 January 1, 2008 and annually thereafter.

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19 **39-17-103. Imposition.**

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21 (a) Taxable event. The following shall apply:

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23 (ii) The tax imposed by W.S. 39-17-104(a)(iii)
24 shall cease to be collected on the first day of the third

1 month following the date the department of environmental
2 quality notifies the director of the department of
3 transportation that the balance of the corrective action
4 account created by W.S. 35-11-1424 exceeds ~~ten million~~
5 ~~dollars (\$10,000,000.00)~~ seventeen million dollars
6 (\$17,000,000.00) and the environmental pollution financial
7 responsibility account created by W.S. 35-11-1427 exceeds
8 one million dollars (\$1,000,000.00). The tax shall again be
9 collected beginning on the first day of the third month
10 following the date the department of environmental quality
11 notifies the director of the department of transportation
12 that the balance of the corrective action account has
13 fallen below ~~four million dollars (\$4,000,000.00)~~ eleven
14 million dollars (\$11,000,000.00).

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16 **39-17-203. Imposition.**

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18 (a) Taxable event. The following shall apply:

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20 (ii) The tax imposed by W.S. 39-17-204(a)(ii)
21 shall cease to be collected on the first day of the third
22 month following the date the department of environmental
23 quality notifies the director of the department of
24 transportation that the balance of the corrective action

1 account created by W.S. 35-11-1424 ~~and the environmental~~
2 ~~pollution financial responsibility account created by W.S.~~
3 ~~35-11-1427 exceed ten million dollars (\$10,000,000.00) in~~
4 ~~each account~~ exceeds seventeen million dollars
5 (\$17,000,000.00) and the balance of the environmental
6 pollution financial responsibility account created by W.S.
7 35-11-1427 exceeds one million dollars (\$1,000,000.00).
8 The tax shall again be collected beginning on the first day
9 of the third month following the date the department of
10 environmental quality notifies the director of the
11 department of transportation that the balance of the
12 corrective action account ~~or the environmental pollution~~
13 ~~financial responsibility account~~ has fallen below ~~four~~
14 ~~million dollars (\$4,000,000.00)~~ eleven million dollars
15 (\$11,000,000.00);

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17 **Section 2.** W.S. 35-11-1418 is repealed.

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19 **Section 3.** This act is effective July 1, 2007.

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(END)