

2024 Regular Session

SENATE BILL NO. 247

BY SENATOR CATHEY

ENVIRONMENTAL CONTROL. Provides for the Motor Fuels Underground Storage Tank Trust Dedicated Fund Account. (8/1/24)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 30:2194(B)(4) and (11), (C)(2), and (4)(a) and (b), 2194.1, 2195(D) and (F)(3), 2195.2(A)(1)(c)(ii), 2195.4(A)(1) and (3)(c), and 2195.10(D), and to repeal 2194(C)(4)(c) and 2195.4(A)(3)(d), relative to the Motor Fuels Underground Storage Tank Trust Dedicated Fund Account; to provide for definitions; to provide for storage of heating oil; to provide for registration of underground storage tanks; to provide for pipeline facilities; to provide for dispensing into unregistered tanks; to provide for abandoned motor fuel underground storage tanks; to provide for uses of the Tank Trust Account; to provide for disbursements from the Tank Trust Account; to provide for financial responsibility for noncompliance; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:2194(B)(4) and (11), (C)(2), and (4)(a) and (b), 2194.1, 2195(D) and (F)(3), 2195.2(A)(1)(c)(ii), 2195.4(A)(1) and (3)(c), and 2195.10(D) are hereby amended and reenacted to read as follows:

§2194. Underground storage tanks; registration

* * *

1 B. As used in R.S. 30:2194 through 2195.11, the following terms shall have
2 the meaning ascribed to them in this Subsection, unless the context clearly indicates
3 otherwise:

4 (1)(a) * * *

5 (4) "Eligible participant" means any owner of an underground storage tank
6 who has registered a newly installed or operating **or temporarily closed** tank with
7 the department prior to the date of a release, has paid the annual tank registration
8 fees along with any late payment fees, **and has not been excluded from coverage,**
9 **as provided in** ~~has met the financial responsibility requirements imposed by R.S.~~
10 ~~30:2195.9, and has met the noncompliance financial responsibility amounts imposed~~
11 ~~by R.S. 30:2195.10.~~

12 * * *

13 (11) "Specialized services" means activities associated with the preparation
14 of a reimbursement application, laboratory analysis, **site assessment and**
15 **characterization**, or any construction activity, construction of trenches, excavations,
16 installing monitoring wells, conducting borings, heavy equipment work, surveying,
17 plumbing, and electrical work, which is carried out by a response action contractor
18 or a subcontractor hired or retained by a response action contractor in response to a
19 discharge or release or threatened release of motor fuels into the groundwater,
20 surface waters, or soils.

21 * * *

22 C. The secretary shall promulgate regulations requiring the registration of all
23 underground storage tanks with a capacity in excess of one hundred ten gallons
24 which contain regulated substances. The secretary may adopt rules and regulations
25 to require the registration of certain underground storage tanks; establish
26 requirements for ensuring sound underground storage tank management for
27 preventing, controlling, remediating, and abating actual or potential contamination
28 of surface water, groundwater, or soils; establish requirements for reporting of
29 known releases and for taking corrective action in response to known releases from

1 underground storage tank systems; establish a field citation program with penalty
2 imposing authority; and establish a certification program for persons installing,
3 repairing, or closing underground storage tank systems. For the purpose of this
4 Section, "underground storage tank" shall not include a:

5 * * *

6 (2) Tank used for storing heating oil, **except heating oils blended with**
7 **hazardous waste,** for consumptive use on the premises where stored.

8 * * *

9 (4) Pipeline facility, including gathering lines that are either of the following:

10 (a) Regulated under ~~the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A.~~
11 ~~1671 et seq.~~ **49 U.S.C. 601.**

12 (b) ~~Regulated under the Hazardous Liquid Pipeline Safety Act of 1979, 49~~
13 ~~U.S.C.A. 2001 et seq.; or~~

14 (c) Which is an intrastate pipeline facility regulated under state laws
15 comparable to the provisions of law referred to in Subparagraph (a) ~~or (b) above of~~
16 **this Paragraph and which is determined by the secretary of transportation to**
17 **be connected to a pipeline, or to be operated or intended to be capable of**
18 **operating at pipeline pressure or as an integral part of the pipeline.**

19 * * *

20 §2194.1. Prohibitions

21 No person shall place or dispense a regulated substance into an underground
22 storage tank that has not been registered with the Louisiana Department of
23 Environmental Quality ~~and that does not have a current registration certificate.~~

24 §2195. Motor Fuels Underground Storage Tank Trust Dedicated Fund Account

25 * * *

26 D. The funds placed in the Tank Trust Account shall only be used in
27 accordance with the terms and conditions of R.S. 30:2194 through ~~2195.9~~ **2195.11**
28 and shall not be placed in the general fund but shall be subject to the appropriation
29 process of the legislature. The monies in the Tank Trust Account shall be invested

1 by the state treasurer in the same manner as monies in the state general fund. Monies
2 deposited into this account shall be **used to defray the cost of investment fees, and**
3 **shall be** categorized as fees and self-generated revenue for the sole purpose of
4 reporting related to the executive budget, supporting documents, and general
5 appropriation bills and shall be available for annual appropriation by the legislature.

6 * * *

7 F.(1)

* * *

8 (3) A tank may be declared to be an abandoned motor fuel underground
9 storage tank by the secretary upon a finding that ~~at~~ **any** of the following apply to the
10 site:

11 (a) **The release at the site is not eligible for the Tank Trust Account.**

12 (b) **The secretary has determined that action by the department is the**
13 **most timely and efficient way to address conditions at the site.**

14 (c) **All of the following apply to the site:**

15 (i) It has received motor fuels in an underground storage tank.

16 ~~(b)~~(ii) The motor fuel underground storage tank was not closed or the site
17 was not assessed or remediated in accordance with the requirements of this Subtitle
18 and the regulations adopted hereunder.

19 ~~(e)~~(iii) It constitutes or may constitute a danger or potential danger to the
20 public health or the environment.

21 ~~(d)~~(iv) It has no financially responsible owner or operator who can be
22 located, or such person has failed or refused to undertake action ordered by the
23 secretary pursuant to R.S. 30:2194 and the regulations adopted thereunder.

24 ~~(e) The release at the site is not eligible for the Tank Trust Account or the~~
25 ~~secretary has determined that action by the department is the most timely and~~
26 ~~efficient way to address conditions at the site.~~

27 * * *

28 §2195.2. Uses of the Tank Trust Account

29 A. The department shall administer the Tank Trust Account and shall make

1 disbursements from the account for all necessary and appropriate expenditures.
2 Pursuant to the authorization in R.S. 30:2195, the secretary of the Department of
3 Environmental Quality shall use the Tank Trust Account as follows:

4 (1) Whenever in the secretary's determination incidence of surface water,
5 groundwater, or soils contamination resulting from the storage of motor fuels may
6 pose a threat to the environment or the public health, safety, and welfare and the
7 owner of the motor fuel underground storage tank has been found to be an eligible
8 participant, the department shall obligate monies available in the Tank Trust Account
9 to provide for the following response actions:

10 * * *

11 (c)(i) * * *

12 (ii) The monies expended from the Tank Trust Account for any of the above
13 approved costs shall be spent only up to such sums as that which is necessary to
14 satisfy federal petroleum underground storage tank financial responsibility
15 requirements (40 CFR 280.93) or ~~one~~ **two** million ~~five hundred thousand~~ dollars per
16 **occurrence**, whichever is greater. This amount shall include any third-party claim
17 arising from the release of motor fuels from a motor fuel underground storage tank.

18 **However, if the secretary determines that further action is needed to address a**
19 **condition that constitutes or may constitute a danger or potential danger to the**
20 **public health or the environment, monies from the Tank Trust Account may be**
21 **expended above the aggregate financial responsibility requirements of 40 CFR**
22 **280.93.**

23 * * *

24 §2195.4. Procedures for disbursements from the Tank Trust Account

25 A. Monies held in the Tank Trust Account established hereunder shall be
26 disbursed by the secretary in the following manner:

27 (1) ~~Payments shall be made in reasonable amounts to motor fuel underground~~
28 ~~storage tank owners for reimbursement of payment to approved response action~~
29 ~~contractors~~ **Notwithstanding any provision of R.S. 30:2194 through 2195.11 to**

* * *

1
2
3
4
5
6
7
8
9

D. Annually the advisory board shall review the financial responsibility requirements for noncompliance and may recommend adjustments to the requirements to the secretary. The secretary shall determine and set the financial responsibility amounts for noncompliance annually. ~~Adjustments to the financial responsibility for noncompliance shall be no less than the amounts currently established by law.~~

* * *

Section 2. R.S. 30:2194(C)(4)(c) and 2195.4(A)(3)(d) are hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jacob K. Wilson.

DIGEST

SB 247 Original

2024 Regular Session

Cathey

Present law provides for the Motor Fuels Underground Storage Tank Trust Dedicated Fund Account and for definitions of "eligible participant" and "specialized services".

Proposed law retains present law and adds that eligible participants include an owner who has registered a temporarily closed tank and has not been excluded from coverage for noncompliance. Proposed law provides that specialized services includes site assessment and characterization.

Present law defines "underground storage tank", provides for registration of such tanks, and provides for certain exceptions.

Proposed law retains present law and specifies that tanks used to store heating oil blended with hazardous waste are not excluded from registration. Proposed law excludes pipeline facilities regulated under federal law and intrastate pipeline facilities determined by the secretary of transportation to be connected, operated, or intended to be capable of operating as an integral part of a pipeline, from registration.

Present law prohibits placing of a regulated substance into a tank that has not been registered with the department and which has no current certificate.

Proposed law retains present law but removes the requirement of no certificate.

Present law provides for uses of account funds for closure of abandoned tanks and provides for prohibitions.

Proposed law retains present law and adds that account funds shall be used to defray investment fees. Proposed law provides that the secretary may declare a tank abandoned where a release is not eligible for the account or where action by the department is the most efficient way to address conditions.

Present law limits account expenditures to the greater of an amount necessary to satisfy federal requirements or \$1,500,000, per occurrence.

Proposed law changes the dollar amount from \$1,500,000 to \$2,000,000, and adds that expenditures may exceed federal requirements where the secretary determines necessary.

Present law provides for reasonable disbursements from the account to tank owners for reimbursement of payment to approved response action contractors, only after amounts required by law have been paid by the owner.

Proposed law provides that for remediation work contracted on or after August 1, 1995, the department shall pay the response action contractor directly upon presentation of invoices.

Present law provides that no disbursement from the account may be made until an eligibility verification is made and that initial assessments shall be made within two years of receipt of a request.

Proposed law retains present law but removes the requirement that an initial assessment be made within two years of request.

Present law provides for financial responsibility for noncompliance, for annual review of requirements and recommendation of adjustments thereto, and requires that adjustments be no less than amounts currently established by law.

Proposed law retains present law but removes the requirement that adjustments be no less than amounts in current law.

Effective August 1, 2024.

(Amends R.S. 30:2194(B)(4) and (11), (C)(2), and (4)(a) and (b), 2194.1, 2195(D) and (F)(3), 2195.2(A)(1)(c)(ii), 2195.4(A)(1) and (3)(c), and 2195.10(D); repeals 2194(C)(4)(c) and 2195.4(A)(3)(d))