

LEGISLATIVE BILL 816

Approved by the Governor May 22, 1989

Introduced by Appropriations Committee, Warner, 25,
Chairperson; L. Johnson, 15; Langford, 36;
Ashford, 6; Schimek, 27; Hannibal, 4;
Moore, 24; Scofield, 49; Wehrbein, 2

AN ACT relating to storage tanks; to amend sections 81-15,120, 81-15,121, and 81-15,123, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the registration of and permit requirements for such tanks; to provide fees; to create a fund; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-15,120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,120. Any farm or residential tank or tank used for storing heating oil, as defined in subdivisions (7)(a) and (7)(b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied by a one-time fee of five dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently ~~abandoned~~ closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environmental Control to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Sec. 2. That section 81-15,121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,121. (1) After January 1, 1987, no A person shall not (a) maintain or use any tank for the storage of regulated substances, or (b) install any new tank, or (c) permanently close a tank without first securing a permit from the State Fire Marshal.

(2) A fee shall not be charged for a permit under subdivision (1)(a) or (c) of this section. The fee for a permit for installation shall be fifty dollars. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund. Within six months after January 1, 1987, and each year thereafter, all

(3) All owners of operating tanks, except those provided for in subsection (3) (4) of this section, shall annually secure a registration permit for register each tank. All registration permits shall be annual permits and shall expire on December 31 of the year for which the permit was issued. The registration fee shall be twenty-five dollars per tank. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Underground Storage Tank Fund. Such permits shall contain the information specified in subsection (5) (4) of this section.

(4) (3) In the case of tanks permanently abandoned on or after January 1, 1974, an annual permit shall not be required and an initial registration permit shall be sufficient.

(5) (4) The application for a registration permit shall be provided by and filed with the State Fire Marshal's office and shall require, but not be limited to, the following information:

(a) The date the tank was placed in or taken out of operation;

(b) The age of the tank;

(c) The size, type, and location of the tank; and

(d) The type of substances stored in the tank and the quantity of such substances remaining in the tank if the tank was permanently abandoned prior to July 17, 1986 has been permanently closed.

(5) The fee for a registration permit issued under subsection (2) of this section shall be based on the size of the tank as follows:

(a) Less than two thousand five hundred gallons, seven dollars and fifty cents per tank;

(b) Two thousand five hundred one to five thousand gallons, ten dollars per tank;

(c) Five thousand one to seven thousand five hundred gallons, twelve dollars and fifty cents per

tank; and

(d) Over seven thousand five hundred gallons; fifteen dollars per tank.

(6) The registration permit fee, collected pursuant to this subsection or section 81-15,120, shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Underground Storage Tank Fund, which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Environmental Control State Fire Marshal to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 72-1276.

Sec. 3. That section 81-15,123, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-15,123. The State Fire Marshal shall adopt and promulgate rules and regulations governing release, detection, prevention, and correction procedures applicable to all owners and operators as shall be necessary to protect human health, public safety, and the environment. Regulations Such rules and regulations may distinguish between types, classes, and ages of tanks. In making such distinctions, the State Fire Marshal shall consider, but not be limited to, location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry-recommended practices, national consensus codes, hydrogeology, depth to the ground water, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tanks, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated. Before adoption, such rules and regulations shall be reviewed and approved by the Director of Environmental Control. The director who shall determine whether the proposed rules and regulations are adequate to protect the environment. Rules and regulations adopted and promulgated pursuant to this section shall include, but not be limited to:

(1) Proper procedures and specifications for the construction, design, installation, replacement, or repair of tanks;

(2) A permit and registration system for all tanks;

(3) A program to establish an inspection system for all tanks. Such program shall provide for periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal. A fee schedule ~~shall~~ may also be developed for the inspection of tanks new tank and piping installations and tank closures in the manner prescribed in section 81-505.01. Such inspection fees shall be paid into the State Fire Marshal Cash Fund for the administration of the Petroleum Products and Hazardous Substances Storage and Handling Act remitted by the State Fire Marshal to the State Treasurer who shall credit them to the Underground Storage Tank Fund. No fee shall be charged for the periodic safety inspections and spot checks of monitoring systems by the State Fire Marshal;

(4) A monitoring system for all tanks which includes, but is not limited to, the following:

(a) An inventory-control procedure for any tank used to hold petroleum products or hazardous substances for resale;

(b) An inventory-control procedure for any tank used solely for consumptive onsite purposes and not for resale. Such control procedure shall determine the method of inventory measurement giving consideration to the economic burden created by the procedure. The frequency of inventory measurement for such category of tank shall include at least one measurement every thirty days;

(c) Provisions for the prompt reporting of any release of a regulated substance; and

(d) A procedure for the proper method of monitoring tanks;

(5) A procedure for notifying the State Fire Marshal of temporarily or permanently abandoned tanks;

(6) A procedure for removing or making safe any abandoned tanks, except that the State Fire Marshal may dispense with such procedure in special circumstances;

(7) Financial responsibility requirements, taking into account the financial responsibility requirements established pursuant to 49 U.S.C. 6991b(d);

(8) Requirements for maintaining a leak-detection system, an inventory system, and a tank-testing or comparable system or method designed to identify releases in a manner consistent with the protection of human health, public safety, and the environment; and

(9) Requirements for maintaining records of any monitoring or leak-detection system, inventory-control system, or tank-testing or comparable system.

Sec. 4. This act shall become operative on January 1, 1990.

Sec. 5. That original sections 81-15,120, 81-15,121, and 81-15,123, Reissue Revised Statutes of Nebraska, 1943, are repealed.