

1 H.83

2 Introduced by Representatives Courcelle of Rutland City and Adams of

3 Hartland

4 Referred to Committee on

5 Date:

6 Subject: Conservation; underground storage tanks; petroleum cleanup fund

7 Statement of purpose: This bill extends until 2014 the authority of the
8 secretary of natural resources to make disbursements from the petroleum
9 cleanup fund. The amount of annual disbursements from the petroleum
10 cleanup fund shall be raised from four percent of annual receipts to six percent
11 of annual receipts. The maximum amount of grants from the petroleum
12 cleanup fund is increased from \$1,000.00 to \$2,000.00. The authority to
13 collect the petroleum distributor licensing fee would be extended until 2016,
14 and the assessment against underground storage tanks would be extended until
15 2014. The bill also proposes to require the secretary of natural resources to
16 establish tank registration requirements for underground storage tanks equal to
17 or less than 1,100 gallons which are or have been used to contain fuel oil for
18 on-premise heating purposes at a public building. In addition, the bill
19 designates low-sulfur nonhighway diesel fuel as heating oil subject to the fee
20 assessment under the petroleum cleanup fund.

1 caused by releases of petroleum from underground storage tanks and
2 aboveground storage tanks, including air emissions for remedial actions, and
3 for compensation of third parties for injury and damage caused by a release.

4 This fund shall be used for no other governmental purposes, nor shall any
5 portion of the fund ever be available to borrow from by any branch of
6 government; it being the intent of the legislature that this fund and its
7 increments shall remain intact and inviolate for the purposes set out in this
8 chapter. Disbursements under this section may be made only for uninsured
9 costs incurred after January 1, 1987 and for which a claim is made prior to
10 July 1, ~~2009~~ 2014 and judged to be in conformance with prevailing industry
11 rates. This includes:

12 * * *

13 (7) administrative and field supervision costs incurred by the secretary
14 in carrying out the provisions of this subchapter. Annual disbursements shall
15 not exceed ~~four~~ six percent of annual receipts;

16 * * *

17 (g) The owner of a farm or residential heating fuel storage tank used for
18 on-premises heating or an underground or aboveground heating fuel storage
19 tank used for on-premises heating by a mobile home park resident, as defined
20 in section 6201 of this title, ~~that~~ which desires assistance to close, replace, or
21 upgrade the tank may apply to the secretary for such assistance. The financial

1 assistance may be in the form of grants of up to ~~\$1,000.00~~ \$2,000.00 or the
2 costs of closure, replacement, or upgrade, whichever is less. Grants shall be
3 made only to the current property owners, except at mobile home parks where
4 a grant may be awarded to a mobile home park resident. To be eligible to
5 receive the grant, an environmental site assessment must be conducted by a
6 qualified consultant during the tank closure, replacement, or upgrade if the
7 tank is an underground heating fuel storage tank. In addition, if the closed tank
8 is to be replaced with an underground heating fuel storage tank, the
9 replacement tank and piping shall provide a level of environmental protection
10 at least equivalent to that provided by a double wall tank and secondarily
11 contained piping. Grants shall be awarded on a priority basis to projects that
12 will avoid the greatest environmental or health risks. The secretary shall also
13 give priority to applicants who are replacing their underground heating fuel
14 tanks with aboveground heating fuel storage tanks that will be installed in
15 accordance with the secretary's recommended standards. The secretary shall
16 also give priority to lower income applicants. To be eligible to receive the
17 grant, the owner must provide the previous year's financial information, and, if
18 the replacement tank is an aboveground tank, must assure that any work to
19 replace or upgrade a tank shall be done in accordance with industry standards
20 (National Fire Protection Association, or NFPA, Code 31), as it existed on
21 July 1, 2004, until another date or edition is specified by rule of the secretary.

1 The secretary shall only authorize up to \$200,000.00 in assistance for
2 underground and aboveground heating fuel tanks in any one fiscal year from
3 the heating fuel account for this purpose. The application must be
4 accompanied by the following information:

5 * * *

6 Sec. 5. 10 V.S.A. § 1942 is amended to read:

7 § 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

8 (a) There is hereby established a licensing fee of one cent per gallon of
9 motor fuel sold by a distributor or dealer or used by a user in this state, which
10 will be assessed against every distributor, dealer or user as defined in 23
11 V.S.A. chapters 27 and 28, and which will be deposited into the petroleum
12 cleanup fund. The secretary, in consultation with the Vermont Petroleum
13 Association and the Vermont Fuel Dealers Association, Inc. shall annually
14 determine whether or not to assess the one-cent licensing fee for the upcoming
15 year. If the unencumbered balance of the motor fuel account of the fund
16 established under subsection 1941(a) of this title is equal to or greater than
17 \$7,000,000.00, then the one-cent licensing assessment for the upcoming year
18 shall not be assessed. If the unencumbered balance in the fund is less than
19 \$7,000,000, then the annual fee may be assessed. The secretary shall notify all
20 sellers assessing this fee of the status of the fee for the upcoming year. This
21 fee will be paid in the same manner, at the same time, and subject to the same

1 restrictions or limitations as the tax on motor fuels. The fee will be collected
2 by the commissioner of motor vehicles and deposited into the petroleum
3 cleanup fund. This fee requirement shall terminate on April 1, ~~2014~~ 2016.

4 (b) There is assessed against every seller receiving more than \$10,000.00
5 annually for the retail sale of heating oil or kerosene, sold in this state and not
6 used to propel a motor vehicle, a licensing fee of one-half cent per gallon of
7 such heating oil or kerosene. This fee shall be subject to the collection,
8 administration, and enforcement provisions of chapter 233 of Title 32, and the
9 fees collected under this subsection by the commissioner of taxes shall be
10 deposited into the petroleum cleanup fund. The secretary, in consultation with
11 the Vermont Petroleum Association and the Vermont Fuel Dealers
12 Association, Inc. shall annually determine whether or not to assess the one-half
13 cent licensing fee for the upcoming year. If the unencumbered balance of
14 heating fuel account of the fund established under subsection 1941(a) of this
15 title is equal to or greater than \$3,000,000.00, then the one-half cent licensing
16 assessment for the upcoming year shall not be assessed. If the unencumbered
17 balance in the fund is less than \$3,000,000, then the annual fee may be
18 assessed. The secretary shall notify all sellers assessing this fee of the status of
19 the fee for the upcoming year. This fee provision shall terminate April 1, ~~2014~~
20 2016.

1 Sec. 6. 10 V.S.A. § 1943 is amended to read:

2 § 1943. PETROLEUM TANK ASSESSMENT

3 (a) Each owner of a category one tank used for storage of petroleum
4 products shall remit to the secretary on October 1 of each year beginning
5 October 1, 1988, \$100.00 per tank, which shall be deposited to the petroleum
6 cleanup fund established by section 1941 of this title, except that:

7 (1) The fee shall be \$50.00 per tank for retail gasoline outlets that sell
8 less than 40,000 gallons of motor fuel per month.

9 (2) The fee shall be reduced by 50 percent if the owner or permittee
10 provides to the satisfaction of the secretary evidence of financial responsibility
11 to allow the taking of corrective action in the amount of \$100,000.00 per
12 occurrence and the compensation of third parties for bodily injury and property
13 damage in the amount of \$300,000.00 per occurrence.

14 (3) The fee shall be relieved if the owner provides to the satisfaction of
15 the secretary, evidence of financial responsibility to allow the taking of
16 corrective action and the compensation of third parties for bodily injury and
17 property damage each in the amount of \$1,000,000.00 per occurrence.

18 (4) The fee for retail motor fuel outlets selling 20,000 gallons or less per
19 month shall not exceed \$100.00 per year for all tanks at a single location.

1 (5) The fee shall be \$50.00 per tank for any municipality that uses less
2 than an annual average of 40,000 gallons of motor fuel per month, provided
3 that all of the tanks of that municipality meet the requirements of this chapter.

4 (b) For purposes of this section, an occurrence is an accident, including
5 continuous or repeated exposure to conditions, which results in the release of
6 petroleum from one or more underground storage tanks at the same site.

7 (c) This tank assessment shall terminate on July 1, ~~2009~~ 2014.

8 (d) The secretary shall establish forms and procedures for the payment of
9 the petroleum tank assessment, including a notice of the obligation 30 days
10 prior to being due. Failure to receive notice shall not waive the payment
11 obligation.

12 Sec. 7. LOW SULFUR NONHIGHWAY DIESEL FUEL

13 Fuels designated by the U.S. Environmental Protection Agency as
14 low-sulfur nonhighway diesel fuel shall be considered a home heating fuel and
15 assessed a fee in the same manner as proscribed in subsection 1942(b) of Title
16 10.

17 Sec. 8. REVIEW OF COLLECTIONS OF HOME HEATING FUEL

18 The petroleum cleanup fund advisory committee, in consultation with the
19 Vermont departments of tax and of motor vehicles, shall examine whether the
20 department of motor vehicles should collect the fee assessed pursuant to
21 subsection 1942(b) of Title 10. A summary of the advisory committee's

- 1 discussion and its recommendations shall be included in the 2010 annual report
- 2 submitted to the general assembly.