

1 H.226

2 Introduced by Representative Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; underground and aboveground liquid

6 storage tanks; regulation of category one tanks; Petroleum Cleanup

7 Fund; distributor licensing fees; tank assessment and removal

8 Statement of purpose of bill as introduced: This bill proposes to require the

9 Secretary of Natural Resources to adopt rules for closing single-wall and

10 combination tank systems by designated dates. This bill provides caps for

11 disbursements from the Petroleum Cleanup Fund and further guidelines for

12 when disbursements may be made as well as how much may be disbursed.

13 This bill also amends current statutes to require payment of petroleum

14 distributor licensing fees until 2021 and payment of petroleum tank assessment

15 fees until 2019.

16 An act relating to the regulation of underground storage tanks

17 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 10 V.S.A. § 1922 is amended to read:

2 § 1922. DEFINITIONS

3 ~~For purposes of~~ As used in this chapter:

4 \* \* \*

5 (20) “Petroleum Cleanup Fund” or “Fund” means the fund created by  
6 section 1941 of this title.

7 (21) “Motor Fuel Account” means the Motor Fuel Account of the Fund  
8 created by section 1941 of this title.

9 (22) “Heating Fuel Account” means the Heating Fuel Account of the  
10 Fund created by section 1941 of this title.

11 Sec. 2. 10 V.S.A. § 1927 is amended to read:

12 § 1927. REGULATION OF CATEGORY ONE TANKS

13 \* \* \*

14 (e) The following tank systems shall be closed in accordance with rules  
15 adopted by the Secretary:

16 (1) not later than January 1, 2016, single-wall tank systems; and

17 (2) not later than January 1, 2018, combination tank systems, except that  
18 combination tank systems in which the tank has been lined shall be closed by  
19 January 1, 2018 or by ten years from the date by which the tank was lined,  
20 whichever is later.

1       (f) A tank owner may petition the Secretary to allow a lined combination  
2       tank system to remain in service an additional five years beyond the date  
3       established in subdivision (e)(2) of this section. The Secretary may grant the  
4       petition upon a determination that:

5               (1) no release has occurred from the tank system;

6               (2) the tank system has passed an inspection for lined tank systems  
7       adopted by the Secretary by rule; and

8               (3) no repairs are suggested or needed to the tank liner.

9       (g) After July 1, 2013, a person shall not line a single-wall tank system.

10       Sec. 3. 10 V.S.A. § 1941 is amended to read:

11       § 1941. PETROLEUM CLEANUP FUND

12   \* \* \*

13       (b) The ~~secretary~~ Secretary may authorize disbursements from the ~~fund~~  
14       Fund for the purpose of the cleanup and restoration of contaminated soil and  
15       groundwater caused by releases of petroleum from underground storage tanks  
16       and aboveground storage tanks, including air emissions for remedial actions,  
17       and for compensation of third parties for injury and damage caused by a  
18       release. This ~~fund~~ Fund shall be used for no other governmental purposes, nor  
19       shall any portion of the ~~fund~~ Fund ever be available to borrow from by any  
20       branch of government; it being the intent of the ~~legislature~~ General Assembly  
21       that this ~~fund~~ Fund and its increments shall remain intact and inviolate for the

1 purposes set out in this chapter. Disbursements under this section may be  
2 made only for uninsured costs incurred after January 1, 1987 and for which a  
3 claim is made prior to July 1, ~~2014~~ 2019 and judged to be in conformance with  
4 prevailing industry rates. This includes:

5 (1) costs incurred by taking corrective action as directed by the ~~secretary~~  
6 Secretary for any release of petroleum into the environment from:

7 (A) an underground storage tank defined as a category one tank,  
8 provided disbursements on any site shall not exceed \$1,240,000.00 and shall  
9 be made from the Motor Fuel Account, as follows:

10 (i) after the first \$10,000.00 of the cleanup costs have been borne  
11 by the owners or operators of tanks ~~tanks~~ double-wall tank systems used for  
12 commercial purposes ~~or after the first \$250.00 of the cleanup costs have been~~  
13 ~~borne by the owners or operators of tanks with capacities equal to or less than~~  
14 ~~1,100 gallons used for farms or residential purposes. Disbursements on any~~  
15 ~~site shall not exceed \$1,240,000.00. These disbursements shall be made from~~  
16 ~~the motor fuel account;~~

17 (ii) after the first \$15,000.00 of cleanup costs have been borne by  
18 the owners or operators of combination tank systems, whether lined or unlined,  
19 used for commercial purposes, unless the system is a lined combination tank  
20 system that has been granted a five-year extension under subsection 1927(f) of  
21 this title;

1           (iii) after the first \$25,000.00 of cleanup costs have been borne by  
2 the owners or operators of lined combination tank systems that have been  
3 granted a five-year extension to operate under subsection 1927(f) of this title;

4           (iv) after the first \$25,000.00 of cleanup costs have been borne by  
5 the owners or operators of single-wall tank systems used for commercial  
6 purposes;

7           (B) an underground motor fuel tank after the first \$250.00 of the  
8 cleanup costs have been borne by the owners or operators of tanks with a  
9 capacity equal to or less than 1,100 gallons and used for farming or residential  
10 purposes. Disbursements on any site shall not exceed \$990,000.00 and shall be  
11 made from the Motor Fuel Account;

12           (C) an underground heating fuel tank used for on-premise heating  
13 after the first \$10,000.00 of the cleanup costs have been borne by the owners  
14 or operators of tanks with capacities over 1,100 gallons used for commercial  
15 purposes, or after the first \$250.00 of the cleanup costs have been borne by the  
16 owners or operators of tanks with capacities equal to or less than 1,100 gallons  
17 used for commercial purposes, or after the first \$250.00 of the cleanup costs  
18 have been borne by the owners or operators of residential and farm tanks.  
19 ~~These disbursements~~ Disbursements on any site shall not exceed \$990,000.00  
20 and shall be made from the ~~heating fuel account~~ Heating Fuel Account;



1 (g) The owner of a farm or residential heating fuel storage tank used for  
2 on-premises heating or an underground or aboveground heating fuel storage  
3 tank used for on-premises heating by a mobile home park resident, as defined  
4 in section 6201 of this title, who desires assistance to close, replace, or upgrade  
5 the tank may apply to the ~~secretary~~ Secretary for such assistance. The  
6 financial assistance may be in the form of grants of up to \$2,000.00 or the costs  
7 of closure, replacement, or upgrade, whichever is less. Grants shall be made  
8 only to the current property owners, except at mobile home parks where a  
9 grant may be awarded to a mobile home park resident. To be eligible to  
10 receive the grant, an environmental site assessment must be conducted by a  
11 qualified consultant during the tank closure, replacement, or upgrade if the  
12 tank is an underground heating fuel storage tank. In addition, if the closed tank  
13 is to be replaced with an underground heating fuel storage tank, the  
14 replacement tank and piping shall provide a level of environmental protection  
15 at least equivalent to that provided by a double wall tank and secondarily  
16 contained piping. Grants shall be awarded on a priority basis to projects that  
17 will avoid the greatest environmental or health risks. The ~~secretary~~ Secretary  
18 shall also give priority to applicants who are replacing their underground  
19 heating fuel tanks with aboveground heating fuel storage tanks that will be  
20 installed in accordance with the ~~secretary's~~ Secretary's recommended  
21 standards. The ~~secretary~~ Secretary shall also give priority to lower income

1 applicants. To be eligible to receive the grant, the owner must provide the  
2 previous year's financial information, and, if the replacement tank is an  
3 aboveground tank, must assure that any work to replace or upgrade a tank shall  
4 be done in accordance with industry standards (National Fire Protection  
5 Association, or NFPA, Code 31), as it existed on July 1, 2004, until another  
6 date or edition is specified by rule of the ~~secretary~~ Secretary. The ~~secretary~~  
7 Secretary shall only authorize up to ~~\$300,000.00~~ \$350,000.00 in assistance for  
8 underground and aboveground heating fuel tanks in any one fiscal year from  
9 the ~~heating fuel account~~ Heating Fuel Account for this purpose. The  
10 application must be accompanied by the following information:

11 \* \* \*

12 Sec. 4. 10 V.S.A. § 1942 is amended to read:

13 § 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

14 (a) There is hereby established a licensing fee of one cent per gallon of  
15 motor fuel sold by a distributor or dealer or used by a user in this ~~state~~ State,  
16 which will be assessed against every distributor, dealer, or user as defined in  
17 23 V.S.A. chapters 27 and 28, and which will be deposited into the ~~petroleum~~  
18 ~~cleanup fund~~ Petroleum Cleanup Fund established pursuant to subsection  
19 1941(a) of this title. The ~~secretary~~ Secretary, in consultation with the  
20 ~~petroleum cleanup fund advisory committee~~ Petroleum Cleanup Fund  
21 Advisory Committee established pursuant to subsection 1941(e) of this title,



1 shall annually report to the ~~legislature~~ General Assembly on the balance of the  
2 ~~motor fuel account of the fund~~ Motor Fuel Account and shall make  
3 recommendations, if any, for changes to the program. The ~~secretary~~ Secretary  
4 shall also determine the unencumbered balance of the ~~motor fuel account of~~  
5 ~~the fund~~ Motor Fuel Account as of May 15 of each year, and if the balance is  
6 equal to or greater than \$7,000,000.00, then the licensing fee shall not be  
7 assessed in the upcoming fiscal year. The ~~secretary~~ Secretary shall promptly  
8 notify all sellers assessing this fee of the status of the fee for the upcoming  
9 fiscal year. This fee will be paid in the same manner, at the same time, and  
10 subject to the same restrictions or limitations as the tax on motor fuels. The  
11 fee will be collected by the ~~commissioner of motor vehicles~~ Commissioner of  
12 Motor Vehicles and deposited into the ~~petroleum cleanup fund~~ Petroleum  
13 Cleanup Fund. This fee requirement shall terminate on April 1, ~~2016~~ 2021.

14 (b) There is assessed against every seller receiving more than \$10,000.00  
15 annually for the bulk retail sale of heating oil, kerosene, or other dyed diesel  
16 fuel sold in this ~~state~~ State a licensing fee of one cent per gallon of such  
17 heating oil, kerosene, or other dyed diesel fuel. This fee shall be subject to the  
18 collection, administration, and enforcement provisions of 32 V.S.A.  
19 chapter 233, and the fees collected under this subsection by the ~~commissioner~~  
20 ~~of taxes~~ Commissioner of Taxes shall be deposited into the ~~petroleum cleanup~~  
21 ~~fund~~ Petroleum Cleanup Fund established pursuant to subsection 1941(a) of

1 this title. The ~~secretary~~ Secretary, in consultation with the ~~petroleum cleanup~~  
2 ~~fund advisory committee~~ Petroleum Cleanup Fund Advisory Committee  
3 established pursuant to subsection 1941(e) of this title, shall annually report to  
4 the ~~legislature~~ General Assembly on the balance of the ~~heating fuel account of~~  
5 ~~the fund~~ Heating Fuel Account and shall make recommendations, if any, for  
6 changes to the program. The ~~secretary~~ Secretary shall also determine the  
7 unencumbered balance of the ~~heating fuel account of the fund~~ Heating Fuel  
8 Account as of May 15 of each year, and if the balance is equal to or greater  
9 than \$3,000,000.00, then the licensing fee shall not be assessed in the  
10 upcoming fiscal year. The ~~secretary~~ Secretary shall promptly notify all sellers  
11 assessing this fee of the status of the fee for the upcoming fiscal year. This fee  
12 provision shall terminate April 1, ~~2016~~ 2021.

13 Sec. 5. 10 V.S.A § 1943 is amended to read:

14 § 1943. PETROLEUM TANK ASSESSMENT

15 (a) Each owner of a category one tank used for storage of petroleum  
16 products shall annually remit to the ~~secretary on October 1 of each year~~  
17 Secretary \$100.00 per double-wall tank system; ~~\$150.00~~ \$250.00 per  
18 combination tank system if the single-wall tank has been lined; \$500.00 for all  
19 other combination tank systems; and ~~\$200.00~~ \$1,000.00 per single-wall tank  
20 system, which shall be deposited to the ~~petroleum cleanup fund~~ Petroleum  
21 Cleanup Fund established by section 1941 of this title, except that:

1           (1) ~~For retail gasoline outlets that sell less than 40,000 gallons of motor~~  
2 ~~fuel per month, the fee shall be:~~

3                   (A) ~~\$75.00 per double wall tank system;~~

4                   (B) ~~\$125.00 per combination tank system; and~~

5                   (C) ~~\$175.00 per single wall tank system.~~

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

11           (3)(2) The fee shall be relieved if the owner provides to the satisfaction  
12 of the ~~secretary~~ Secretary, evidence of financial responsibility to allow the  
13 taking of corrective action and the compensation of third parties for bodily  
14 injury and property damage each in the amount of \$1,000,000.00 per  
15 occurrence.

16           (4) ~~The fee for retail motor fuel outlets selling 20,000 gallons or less per~~  
17 ~~month shall not exceed \$100.00 per year for all double wall tanks at a single~~  
18 ~~location and shall not exceed \$300.00 for all combination tank systems at a~~  
19 ~~single location. This cap shall not apply to a retail motor fuel outlet utilizing a~~  
20 ~~single wall tank system.~~

1           ~~(5) For any municipality that uses an annual average of less than 40,000~~  
2 ~~gallons of motor fuel per month, provided that all of the tanks of that~~  
3 ~~municipality meet the requirements of this chapter, the fee shall be:~~

4                     ~~(A) \$50.00 per double wall tank system;~~

5                     ~~(B) \$100.00 per combination tank system; and~~

6                     ~~(C) \$150.00 per single wall tank system.~~

7   \* \* \*

8           (c) This tank assessment shall terminate on July 1, ~~2014~~ 2019.

9   \* \* \*

10       Sec. 6. 10 V.S.A. § 1944(a) is amended to read:

11           (a) The ~~secretary~~ Secretary may make individual loans of up to ~~\$75,000.00~~  
12 \$150,000.00 for:

13                     (1) the replacement or removal of category one tanks used for the  
14 storage of petroleum products. These loans shall be made from the ~~motor fuel~~  
15 ~~account of the fund established under subsection 1941(a) of this title~~ Motor  
16 Fuel Account;

17                     (2) the removal, or the replacement or improvement, or both, of piping,  
18 tank-top sumps, and other components of the secondary containment and  
19 release detection systems of category one tanks, for the purpose of reducing the  
20 likelihood of a release of regulated substance to the environment. These loans

1 shall be made from the ~~motor fuel account of the fund established under~~  
2 ~~subsection 1941(a) of this title~~ Motor Fuel Account;

3 (3) the removal, replacement, or upgrade of an underground or  
4 aboveground storage tank used for the storage of petroleum products for the  
5 purpose of reducing the likelihood of a release of petroleum into the  
6 environment. These loans shall be made from the ~~motor fuel account or~~  
7 ~~heating fuel account of the fund established under subsection 1941(a) of this~~  
8 ~~title,~~ Motor Fuel Account or Heating Fuel Account depending upon the use or  
9 contents of the tank.

10 Sec. 7. 10 V.S.A. § 1941a is added to read:

11 § 1941a. SINGLE-WALL AND COMBINATION TANKS; TANK

12 REMOVAL

13 (a) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(iv),  
14 when a release is discovered during the closure and removal of a single-wall  
15 underground storage tank, the Fund may pay cleanup costs after the first  
16 \$10,000.00, and disbursements on any site shall not exceed \$1,240,000.00.

17 (b) Notwithstanding the requirements of 10 V.S.A. § 1941(b)(1)(A)(ii),  
18 when a release is discovered during the closure and removal of a combination  
19 tank system, whether lined or unlined, the Fund may pay cleanup costs after  
20 the first \$10,000.00, and disbursements on any site shall not exceed  
21 \$1,240,000.00.

1       Sec. 8. REPEAL

2           The following are repealed:

3               (1) 10 V.S.A. § 1941a(a) on January 1, 2016;

4               (2) 10 V.S.A. § 1941a(b) on January 1, 2018.

5       Sec. 9. EFFECTIVE DATES

6           This act shall take effect on July 1, 2013, except Sec. 5 (petroleum tank

7           assessment) of this act shall take effect on July 1, 2014.