

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 767

Introduced by Schilz, 47.

Read first time January 09, 2014

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the environment; to amend section 81-15,123,
2 Reissue Revised Statutes of Nebraska, and section
3 66-1519, Revised Statutes Cumulative Supplement, 2012; to
4 change permitted uses of a fund; to change a provision
5 relating to rules and regulations for training
6 requirements; and to repeal the original sections.

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

1 Section 1. Section 66-1519, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 66-1519 (1) There is hereby created the Petroleum Release
4 Remedial Action Cash Fund to be administered by the department.
5 Revenue from the following sources shall be remitted to the State
6 Treasurer for credit to the fund:

7 (a) The fees imposed by sections 66-1520 and 66-1521;

8 (b) Money paid under an agreement, stipulation, cost-
9 recovery award under section 66-1529.02, or settlement; and

10 (c) Money received by the department in the form of
11 gifts, grants, reimbursements, property liquidations, or
12 appropriations from any source intended to be used for the purposes
13 of the fund.

14 (2) Money in the fund may be spent for: (a) Reimbursement
15 for the costs of remedial action by a responsible person or his or
16 her designated representative and costs of remedial action undertaken
17 by the department in response to a release first reported after July
18 17, 1983, and on or before June 30, 2016, including reimbursement for
19 damages caused by the department or a person acting at the
20 department's direction while investigating or inspecting or during
21 remedial action on property other than property on which a release or
22 suspected release has occurred; (b) payment of any amount due from a
23 third-party claim; (c) fee collection expenses incurred by the State
24 Fire Marshal; (d) direct expenses incurred by the department in
25 carrying out the Petroleum Release Remedial Action Act; (e) other

1 costs related to fixtures and tangible personal property as provided
2 in section 66-1529.01; (f) interest payments as allowed by section
3 66-1524; (g) claims approved by the State Claims Board authorized
4 under section 66-1531; ~~and~~ (h) the direct and indirect costs incurred
5 by the department in responding to spills and other environmental
6 emergencies related to petroleum or petroleum products; and (i)
7 reimbursement to a responsible person or his or her qualified trainer
8 for the cost of compliance with the operator training requirements of
9 the federal Energy Policy Act of 2005.

10 (3) Transfers may be made from the Petroleum Release
11 Remedial Action Cash Fund to the General Fund at the direction of the
12 Legislature. The State Treasurer shall transfer one million five
13 hundred thousand dollars from the Petroleum Release Remedial Action
14 Cash Fund to the Ethanol Production Incentive Cash Fund on July 1 of
15 each of the following years: 2004 through 2011.

16 (4) Any money in the Petroleum Release Remedial Action
17 Cash Fund available for investment shall be invested by the state
18 investment officer pursuant to the Nebraska Capital Expansion Act and
19 the Nebraska State Funds Investment Act.

20 Sec. 2. Section 81-15,123, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-15,123 The State Fire Marshal shall adopt and
23 promulgate rules and regulations governing release, detection,
24 prevention, and correction procedures applicable to all owners and
25 operators as shall be necessary to protect human health, public

1 safety, and the environment. Such rules and regulations may
2 distinguish between types, classes, and ages of tanks. In making such
3 distinctions, the State Fire Marshal shall consider, but not be
4 limited to, location of the tanks, soil and climate conditions, uses
5 of the tanks, history of maintenance, age of the tanks, current
6 industry-recommended practices, national consensus codes,
7 hydrogeology, depth to the ground water, size of the tanks, quantity
8 of regulated substances periodically deposited in or dispensed from
9 the tanks, the technical capability of the owners and operators, and
10 the compatibility of the regulated substance and the materials of
11 which the tank is fabricated. Before adoption, such rules and
12 regulations shall be reviewed and approved by the Director of
13 Environmental Quality who shall determine whether the proposed rules
14 and regulations are adequate to protect the environment. Rules and
15 regulations adopted and promulgated pursuant to this section shall
16 include, but not be limited to:

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

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

20 (3) A program to establish an inspection system for all
21 tanks. Such program shall provide for periodic safety inspections and
22 spot checks of monitoring systems by the State Fire Marshal. A fee
23 schedule may also be developed for the inspection of new tank and
24 piping installations and tank closures in the manner prescribed in
25 section 81-505.01. Such inspection fees shall be remitted by the

1 State Fire Marshal to the State Treasurer for credit to the
2 Underground Storage Tank Fund. No fee shall be charged for the
3 periodic safety inspections and spot checks of monitoring systems by
4 the State Fire Marshal;

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

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

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

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

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

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

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

24 (7) Financial responsibility requirements, taking into
25 account the financial responsibility requirements established

1 pursuant to 42 U.S.C. 6991b(d);

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

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

9 (10) Provisions to establish a system for licensing tank
10 installation and removal contractors;

11 (11) Provisions to prohibit delivery to, deposit into, or
12 the acceptance of a regulated substance into, an underground storage
13 tank at a facility which has been identified by the State Fire
14 Marshal to be ineligible for such delivery, deposit, or acceptance;
15 and

16 (12) ~~Effective August 8, 2009, requirements~~ Requirements
17 for training and certification of operators. In adopting such rules
18 and regulations, the State Fire Marshal shall establish training and
19 experience requirements for qualified trainers that will insure
20 operators receive appropriate training necessary to protect human
21 health, public safety, and the environment in the operation of tanks.

22 Nothing in this section shall be construed to require a
23 subcontractor working under the direction of a licensed installation
24 or removal contractor to be licensed.

25 Sec. 3. Original section 81-15,123, Reissue Revised

1 Statutes of Nebraska, and section 66-1519, Revised Statutes
2 Cumulative Supplement, 2012, are repealed.