

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 352

Short Title: DOT-Underground Tanks.

(Public)

Sponsors: Senators Goldston; Carpenter and Smith.

Referred to: Environment and Natural Resources.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO ADDRESS ACQUISITION AND COMPENSATION BY THE DEPARTMENT OF TRANSPORTATION OF PROPERTY THAT IS CONTAMINATED BY LEAKING PETROLEUM UNDERGROUND STORAGE TANKS AND THE DEPARTMENT'S ELIGIBILITY FOR THE COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK FUNDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 is amended by adding a new section to read:

"§ 136-117.1. Acquisition of and compensation for contaminated property containing underground storage tanks and eligibility for the commercial and noncommercial leaking petroleum underground storage tanks funds.

(a) If a leaking petroleum underground storage tank is located within the right-of-way that the Department of Transportation acquires, the Department of Transportation may appropriate the right-of-way, and any additional area that is necessary to investigate and clean up the contaminated right-of-way and the additional contaminated area, to the standards required by law.

(b) If the Department of Transportation acquires contaminated right-of-way under this Article, and the former owner or operator is eligible for either the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund or the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund, then the Department of Transportation shall be eligible for the Fund to the extent for which the former owner or operator is eligible in order to investigate and clean up the contaminated acquired right-of-way. If the Department of Transportation appropriates

1 any additional land necessary to investigate and clean up the right-of-way and the
2 additional land, pursuant to subsection (a) of this section, and the owner of the
3 additional land or the operator of the underground storage tank(s), located in the
4 additional area, are eligible for either the Commercial Leaking Petroleum Underground
5 Storage Tank Cleanup Fund or the Noncommercial Leaking Petroleum Underground
6 Storage Tank Cleanup Fund, then the Department of Transportation shall be eligible for
7 the Fund to the extent for which that owner or operator is eligible in order to investigate
8 and clean up the contaminated additional land and the right-of-way.

9 (c) The Department of Transportation may recover the costs of the investigation
10 and the cleanup of any contaminated right-of-way acquired under this Article from any
11 responsible party. The Department of Transportation may offset these costs in its
12 eminent domain proceedings against the damages the responsible party is entitled to
13 recover under this Article.

14 (d) The Department of Transportation may place a lien against property owned
15 by any responsible party from whom the Department acquires contaminated right-of-
16 way under this Article and against the right-of-way claim of such responsible party."

17 Sec. 2. This act is effective upon ratification.