

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 352

Environment and Natural Resources Committee Substitute Adopted 5/16/91

Short Title: DOT-Underground Tanks.

(Public)

Sponsors:

Referred to:

March 28, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE ACQUISITION BY THE DEPARTMENT OF
2 TRANSPORTATION OF PROPERTY CONTAMINATED BY A LEAKING
3 PETROLEUM UNDERGROUND STORAGE TANK AND THAT IS EITHER
4 LOCATED WITHIN A RIGHT-OF-WAY OR NEEDED FOR THE
5 INVESTIGATION AND CLEANUP OF SUCH PROPERTY AND TO PROVIDE
6 THAT THE DEPARTMENT OF TRANSPORTATION IS ELIGIBLE FOR
7 REIMBURSEMENT FROM STATE CLEANUP FUNDS TO THE SAME
8 EXTENT AS THE FORMER OWNER OF SUCH PROPERTY.
9

10 The General Assembly of North Carolina enacts:

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

12 "**§ 136-117.1. Acquisition of property contaminated by leaking petroleum**
13 **underground storage tanks; eligibility for reimbursement.**

14 (a) Unless a different meaning is required by the context:

15 (1) The definitions set out in G.S. 143-215.94A apply to this section.

16 (2) 'Clean up' means to collect and remove a discharge or release of
17 petroleum from an underground storage tank and to restore the
18 affected area in accordance with the requirements of federal law and
19 regulations and of Article 21A of Chapter 143 of the General Statutes
20 and rules adopted pursuant thereto.

21 (3) 'Department' means the Department of Transportation.

22 (b) The Department may acquire right-of-way that is necessary to investigate and
23 clean up contamination resulting from a release or discharge from a leaking petroleum

1 underground storage tank located within a right-of-way that is owned or is to be
2 acquired by the Department. This Article governs the acquisition of such property.

3 (c) The Department may investigate and clean up contamination resulting from a
4 release or discharge from a leaking petroleum underground storage tank that is located
5 on property outside of a right-of-way if such release or discharge poses a hazard to
6 environmental quality within the right-of-way, whether or not the Department acquires
7 such property.

8 (d) If the Department acquires right-of-way under this Article and a former
9 owner or operator of a leaking petroleum underground storage tank located on such
10 property is eligible for reimbursement pursuant to G.S. 143-215.94E from either the
11 Commercial Fund or the Noncommercial Fund, the Department shall be eligible for
12 reimbursement from either fund for investigation and cleanup costs incurred by the
13 Department to the same extent that the former owner or operator would be eligible for
14 reimbursement had the former owner or operator performed the investigation or
15 cleanup.

16 (e) The Department may recover any costs it incurs for which the Department is
17 not otherwise reimbursed for any investigation or cleanup of any property that is
18 contaminated by a leaking petroleum storage tank from any responsible party. The
19 Department may offset such costs against any damages the responsible party is entitled
20 to recover in an eminent domain proceeding under this Article."

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