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The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

Title 10: Conservation And Development

Chapter 59: Underground And Aboveground Liquid Storage Tanks

Subchapter 1: Underground Storage Tank Regulation

§ 1921. Purpose

The ground and surface waters of the State are an essential and significant portion of the natural resources of the State historically protected by State programs. Significant contamination of these natural resources and hazard to the public health results from the failure of aboveground storage tanks and underground facilities for the storage and handling of petroleum liquids, related sludges, and other chemicals. It is the purpose of this chapter to prevent ground and surface water contamination from these facilities by authorizing the establishment of State standards and criteria for the design, installation, operation, maintenance, and monitoring of underground liquid storage facilities. It is the intent of this chapter to provide authority to the Secretary to enable the Secretary to operate a program consistent with or more stringent than that contained in Title VI of the Hazardous and Solid Waste Amendments of 1984. (Added 1985, No. 66, § 1; amended 1997, No. 132 (Adj. Sess.), § 2, eff. April 23, 1998.)

§ 1922. Definitions

As used in this chapter:

(1) "Aboveground storage tank" means any tank, other than an underground storage tank, used to store any of the following petroleum products: gasoline, diesel, kerosene, used oil, or heating oil.

(2) "Agency" means the Agency of Natural Resources.

(3) "Operator" means any person in control of, or having responsibility for, the daily operation of the underground or aboveground storage tank.

(4) "Owner" means:

(A) in the case of any underground storage tank in use on July 1, 1985 or brought into use after that date, any person who owns an underground storage tank used for storage or dispensing of regulated substances;

(B) in the case of any underground storage tank in use before July 1, 1985 and no longer in use on that date, any person who owned such tank immediately before the discontinuance of its use;

(C) any person who owns an aboveground storage tank.

(5) "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department, or subdivision of the State, federal agency, or any other legal or commercial entity.

(6) "Regulated substance" means all petroleum and toxic, corrosive, or other chemicals and related sludge included in the following:

(A) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 but does not include any substance regulated as a hazardous waste under chapter 159 of this title;

(B) petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute);

(C) any other substance as designated by rule of the Secretary.

(7) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank or aboveground storage tank into groundwater, surface water, or soils.

(8) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative.

(9) "Tank integrity demonstration" means a test or a series of tests or other appropriate procedures prescribed by the Secretary to ascertain the condition of an underground storage tank and its surroundings. A tank integrity demonstration may be performed only by a tank inspector licensed under this chapter and shall be completed upon submission of a report detailing the results of one or more approved tests and the Secretary's approval of that report.

(10) "Underground storage tank" means any one or combination of tanks, including underground pipes connected to it or them, that is or has been used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected to it or them, is 10 percent or more beneath the surface of the ground. Provided, however, that the following are excluded from the definition of "underground storage tanks" established under this section:

(A) septic tanks and manure storage tanks;

(B) flow through process tanks permitted under chapter 47 of this title and tanks regulated by chapter 159 of this title;

(C) stormwater or wastewater collection systems;

(D) storage tanks situated in an underground area if the tank is upon or above the area floor;

(E) pipeline facilities regulated by the federal Natural Gas Pipeline Safety Act (49 U.S.C. App. 1671 et seq.), the Hazardous Liquid Pipeline Safety Act (49 U.S.C. App. 2001 et seq.) or an intrastate pipeline regulated under State laws similar to the foregoing;

(F) liquid petroleum gas storage tanks, used predominantly for the storage of propane, propylene, butane, and butylenes, regulated by the Vermont Fire Prevention and Building Code.

(11) "Category one tank" means an underground storage tank, except for the following:

(A) fuel oil storage tanks used for on-premises heating purposes,

(B) farm or residential tanks for storing motor fuel.

(12) "Bodily injury" means bodily injury, including sickness, disease, or death, sustained by any person.

(13) "Property damage" means:

(A) physical damage to tangible property including all resulting loss of use of that property; or

(B) loss of use of tangible property that is not physically damaged.

(14) "Bulk storage tank" means any aboveground petroleum storage tank at a facility required to have a Spill Prevention Control and Countermeasure (SPCC) Plan pursuant to 40 C.F.R. § 112.

(15) "Public building" shall have the same meaning as defined in 20 V.S.A. § 2730.

(16) "Acceptable piping" means:

(A) double-wall pressurized piping; or

(B) single-wall piping that operates under suction, is pitched evenly uphill from the tank top, and has only one check valve that is located at the dispenser, fuel burner, generator, or other piping termination point.

(17) "Double-wall tank system" means an underground storage tank system consisting of a double-wall tank and acceptable piping.

(18) "Combination tank system" means an underground storage tank system consisting of a single-wall tank and acceptable piping.

(19) "Single-wall tank system" means an underground storage tank system consisting of a single-wall tank and single-wall pressurized piping.

(20) "Petroleum Cleanup Fund" or "Fund" means the fund created by section 1941 of this title.

(21) "Motor Fuel Account" means the Motor Fuel Account of the Fund created by section 1941 of this title.

(22) "Heating Fuel Account" means the Heating Fuel Account of the Fund created by section 1941 of this title. (Added 1985, No. 66, § 1; amended 1987, No. 76, § 18; 1987, No. 282 (Adj. Sess.), §§ 7, 7a; 1989, No. 110, §§ 1, 2, eff. June 20, 1989; 1991, No. 85, § 1; 1995,

No. 57, § 2; 1997, No. 132 (Adj. Sess.), § 3, eff. April 23, 1998; 2003, No. 153 (Adj. Sess.), § 4; 2009, No. 22, § 1; 2009 No. 3 (Sp. Sess.), § 19; 2011, No. 161 (Adj. Sess.), § 2; 2013, No. 55, § 1, eff. May 30, 2013.)

§ 1923. Notice of new or existing underground storage tank

(a) New tanks. When an underground storage tank is installed or entered into service after June 30, 1985, the owner shall notify the Secretary of the existence of that tank.

(b) Tanks in service on June 30, 1985. Before April 1, 1986, any person who on June 30, 1985 owns an underground storage tank currently in use shall notify the Secretary of the existence of that tank.

(c) Tanks no longer in service. Any person who knowingly owned or used an underground storage tank after January 1, 1974, and who does not have knowledge that the tank has been closed in accordance with tank closure requirements prescribed by the rules, shall make a one-time notification to the Secretary regarding the existence of that tank. No person is required under this section to report a tank that has been reported under subsection (b) of this section.

(d) Notices. Notices under this section shall be in the form and manner prescribed by the Secretary.

(1) All notices shall include at least the following information, to the extent known by the person reporting:

(A) the tank's size, type, and location; and

(B) the type and quantity of substance, if any, stored in it.

(2) Notices for tanks that are no longer in operation shall also include the following information, to the extent known by the person reporting:

(A) the date the tank was taken out of operation; and

(B) the age of the tank at that time.

(e) Applicability. Notices under this section and section 1925 of this title shall apply to any underground storage tank, except for: farm or residential tanks of equal to or less than 1,100 gallons capacity that are used for storing motor fuel for noncommercial purposes; and heating oil tanks used for on-premises heating purposes that are less than or equal to 1,100 gallons capacity. (Added 1985, No. 66, § 1; amended 1991, No. 85, § 2; 1997, No. 132 (Adj. Sess.), § 4, eff. April 23, 1998.)

§ 1924. Integrity report

The owner or operator of an underground storage tank may be ordered by the Secretary to complete a tank integrity demonstration in the following circumstances:

(1) when the Secretary has reason to suspect there is or has been a release, or

(2) when in the Secretary's opinion the age, operation, or conditions surrounding the installation, or any combination of the above, so warrant. (Added 1985, No. 66, § 1.)

§ 1925. Notice in land records

In order to make the information available to future purchasers, tank owners shall record the existence and location of underground storage tanks in local land records. The Secretary shall establish by rule the information to be recorded and the manner of recording. (Added 1985, No. 66, § 1.)

§ 1926. Unused and abandoned tanks

(a) Any underground storage tank that does not meet new construction standards as prescribed by the rules, and that has not been used for a period of one year shall be closed in accordance with tank closure requirements prescribed by the rules. Any underground storage tank that has not been used for a period of one year may be closed in accordance with tank closure requirements prescribed by rules adopted under this chapter.

(b) The responsibility for the closure of an underground storage tank shall rest with:

- (1) the person who owned the tank immediately before its use was discontinued; and
- (2) any subsequent purchaser of the tank or the property on which the tank is located, if the purchaser knew or had reason to know of the existence of the tank prior to the purchase.

(c) The person identified in subdivision (b)(2) of this section shall have the primary responsibility for closure, except that a secured lender who acquires record title to the property on which the tank is located, through or incident to foreclosure, shall not have responsibility under this section, provided that the secured lender discloses in writing the presence of the unused underground tank or tanks to the subsequent buyer, and, within 30 days of the date the secured lender becomes record title holder of the property, the secured lender takes all of the following actions:

- (1) the contents of the tank or tanks are removed such that less than one inch or 0.3 percent by weight of the tank's capacity remains in the tank;
- (2) all fill pipes, gauge openings, manways, and other openings are secured to prevent infiltration from rainwater, surface runoff, and accidental deliveries; and
- (3) the vent line is left open and functioning and is secured to prevent infiltration from rainwater and debris.

(d) If the persons described in subdivisions (b)(1) and (2) of this section are unknown or cannot be contacted, or if the person owning the land on which the tank is located does not allow access to the tank, the person owning the land on which the tank is located, upon direction of the Secretary, shall close the tank. If the following conditions are met, the Secretary shall draw upon the Petroleum Cleanup Fund established by section 1941 of this title in order to reimburse the person owning the land for the reasonable costs of that action and the Secretary shall not seek repayment to the Fund from the person owning the land:

(1) the person owning the land can establish that after making a diligent and appropriate investigation he or she had no knowledge or reason to know of the existence of an underground storage tank; and

(2) the person owning the land has given all reasonable assistance in the closing of the tank; and

(3) the person owning the land is directed in writing by the Secretary to close the tank, and does so. (Added 1985, No. 66, § 1; amended 1987, No. 282 (Adj. Sess.), § 20; 1995, No. 57, § 1; 1997, No. 132 (Adj. Sess.), § 5, eff. April 23, 1998; 2009, No. 22, § 2.)

§ 1927. Regulation of category one tanks

(a) After June 30, 1986, no owner or operator shall operate or maintain a category one tank without first having obtained a permit from the Secretary. Application for a permit shall be made on a form prescribed by the Secretary. Permits issued by the Secretary shall not exceed five years.

(b) A permit for an underground storage tank shall specify:

(1) that new tanks be cathodically protected or be constructed of a noncorrosive material or be constructed of steel clad with noncorrosive material;

(2) standards for design of new tanks that shall ensure a technology and provide a level of protection that is at least equivalent to that provided by double wall tanks which may be monitored from the surface. The Secretary, by rule, may determine that in specific circumstances these standards are not necessary to protect the environment and the public health;

(3) installation and compatibility requirements;

(4) leak detection and monitoring requirements, including at least one of the following: the maintenance of inventory, leak detection, or monitoring records;

(5) reporting requirements;

(6) requirements for maintaining evidence of financial responsibility for corrective action, including compensating third parties, except for tanks used to store a hazardous substance defined in subdivision 1922(6)(A) of this title, unless that financial responsibility is required by federal law;

(7) requirements for taking corrective action in response to releases;

(8) requirements for reporting releases and corrective action taken and its effectiveness;

(9) requirements for tank closure as prescribed by the rules;

(10) requirements for the upgrade or closure of tanks by December 22, 1998 that do not meet standards adopted to prevent releases due to corrosion, and spills or overfills;

(11) other requirements necessary to carry out the purposes indicated in section 1921 of this title.

(c) If inventory records are not properly maintained, the Secretary may require that a tank integrity demonstration be completed.

(d) No person shall deliver a regulated substance to a category one tank that is visibly designated by the Agency as not meeting standards adopted by the Secretary related to corrosion protection, spill prevention, leak detection, financial responsibility, or overfill protection.

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

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

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

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

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

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

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

(g) On and after May 30, 2013, a person shall not line a single-wall or combination tank system, unless the single-wall or combination system meets standards for new lined systems adopted by procedure by the Secretary. At a minimum, these standards shall address the tank system's piping, secondary containment for all portions of the system except the tank, leak detection, liquid tight containment sumps on the tank top, and liquid tight dispenser sumps.

(h) Notwithstanding the provisions of subsection (g) of this section, a person shall not line a single-wall or combination tank system after January 1, 2014. (Added 1985, No. 66, § 1; amended 1987, No. 76, § 9; 1987, No. 282 (Adj. Sess.), § 8; 1989, No. 110, § 3, eff. June 20, 1989; 1991, No. 85, § 5; 1997, No. 132 (Adj. Sess.), § 6, eff. April 23, 1998; 2007, No. 18, § 1; 2013, No. 55, § 2, eff. May 30, 2013.)

§ 1928. Regulation of farm and residential large motor fuel tanks

The Secretary shall establish rules for the new installation of or reentry into service of farm and residential underground storage tanks of greater than 1,100 gallons that are or have been used for storing motor fuel for noncommercial purposes. These rules shall establish registration requirements and requirements that address tank condition, composition, size, type, compatibility, and method of installation. No person shall install or reenter into service such a tank after the effective date of these rules without complying with these rules. The Secretary also shall adopt rules that establish requirements for any monitoring or leak detection system or inventory control system or tank testing system

deemed appropriate and maintaining records thereof. The rules also shall establish requirements for reporting of any releases and taking corrective action, requirements for tank closure and evidence of financial responsibility, and requirements for the upgrade or closure of tanks by December 22, 1998 that do not meet standards adopted to prevent releases due to corrosion, and spills or overfills. These rules for new and existing tanks shall take into account the unique schedule of home and farm use. Inventory control measures shall be appropriate to these uses. After December 22, 1998, no person shall deliver a regulated substance to a farm or residential tank regulated under this section if that tank is not visibly designated on the premises in a manner prescribed by the Agency as meeting standards adopted to prevent releases due to corrosion, spills, or overfills. (Added 1985, No. 66, § 1; amended 1987, No. 282 (Adj. Sess.), § 9; 1989, No. 110, § 4, eff. June 20, 1989; 1997, No. 132 (Adj. Sess.), § 7, eff. April 23, 1998.)

§ 1929. Regulation of large heating oil tanks

The Secretary shall establish tank registration requirements for underground storage tanks of greater than 1,100 gallons that are or have been used to contain fuel oil for on-premises heating purposes. (Added 1985, No. 66, § 1.)

§ 1929a. Standards for aboveground storage tanks

(a) On or before December 31, 2011, the Secretary shall adopt rules addressing the design and proper installation of aboveground storage tanks.

(b) After January 1, 2012, no person shall offer for sale, install, or substantially improve an aboveground storage tank that does not meet the standards adopted by the Secretary under subsection (a) of this section.

(c) On or before July 1, 2017, the Secretary shall adopt rules for the inspection of aboveground storage tanks. The rules shall include, at a minimum, the following:

(1) when installation of secondary containment systems for types of aboveground storage tanks is required, the required specifications of the systems, and the process for installation of the systems;

(2) the protocol to be followed and the criteria to be reviewed in the performance of inspections required under this section, including:

(A) the appropriate methods to document the age of tanks installed on or after July 1, 2017;

(B) the frequency of required tank inspections;

(C) requirements for the tagging or marking of tanks and tank fill pipes when tanks are determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary under this section;

(3) an updated checklist to be used in the performance of inspections required under this section or the rules adopted by the Secretary under this section;

(4) training and certification requirements for tank inspectors;

(5) the protocol to address tanks identified as noncompliant with the inspection criteria established by the rules adopted by the Secretary under this section; and

(6) requirements for the reuse of an aboveground storage tank removed under the requirement of subsection (g) of this section.

(d) A fuel supplier shall inspect an aboveground storage tank in accordance with the requirements of this chapter and the rules adopted by the Secretary pursuant to subsection (c) of this section.

(e) The Secretary shall maintain a database of tanks that have been determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary pursuant to subsection (c) of this section. The database shall be accessible to the public.

(f) No person shall deliver heating fuel to an aboveground storage tank that has been visibly designated as noncompliant with the requirements of this chapter.

(g) If the owner of any aboveground storage tank that serves a structure converts the type of fuel used for the structure from fuel oil or kerosene to natural gas so that the structure is no longer served for any purpose by the aboveground storage tank, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes removed at the same time as the conversion. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. (Added 2007, No. 18, § 2; amended 2015, No. 76 (Adj. Sess.), § 1.)

§ 1929b. Regulation of heating oil tanks at public buildings

The Secretary shall establish tank registration requirements for underground storage tanks equal to or less than 1,100 gallons that are or have been used to contain fuel oil for on-premises heating purposes at a public building. (Added 2009, No. 22, § 3.)

§ 1930. Implementation; coordination

(a) Rulemaking standards. To the extent compatible with this chapter, in establishing rules and standards, the Secretary may distinguish between types, classes, and ages of underground storage tanks. In making such distinctions the Secretary may take into consideration factors including location of tanks, soil and climate considerations, uses of the tanks, history of maintenance, age, current industry recommended practices, national codes, hydrogeology, water table, size of tanks, volume of use, technical capability of owners and operators, and compatibility of the regulated substance and materials of fabrication. The distinctions may also take into consideration the location of storage tanks in relation to recharge areas for community type water supply wells. Where appropriate, the Secretary may designate whether the owner or the operator is responsible for monitoring a particular tank. The Secretary shall ensure that standards established with respect to financial responsibility shall bear a reasonable relation to the risk associated with a regulated substance release. Financial responsibility may be established by any one or a combination of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. The Secretary may suspend enforcement of the financial

responsibility requirements for a particular class or category of underground storage tanks if the Secretary makes a determination that methods of financial responsibility are not generally available for underground storage tanks in that class or category. The suspension shall extend for a period not to exceed 180 days and may be extended for additional 180 day periods by further determination by the Secretary that the need continues to exist and that progress is being made as required by federal law or regulation (section 9003 of the federal Solid Waste Disposal Act).

(b) Advisory committee. The Secretary shall select an advisory committee from among groups representing municipal, environmental, business, and industry interests. The Secretary shall consult with the advisory committee in preparing rules under this chapter.

(c) Coordination with other departments. Nothing in this chapter is intended to interfere with the authorities of the Department of Health or the Department of Labor or the Agency of Agriculture, Food and Markets. The Secretary shall work cooperatively with the Commissioner of Health, Labor and Industry, and the Secretary of Agriculture, Food and Markets in the Secretary's development of procedures and rules to carry out the intent of this chapter. (Added 1985, No. 66, § 1; amended 1987, No. 85, § 4, eff. June 9, 1987; 2003, No. 42, § 2, eff. May 27, 2003; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006.)

§ 1931. Inspections; right of entry; information

For the purposes of developing or enforcing any rule, regulation, standard, permit, or order authorized by this chapter, the Secretary, or the Secretary's authorized representative, may request and any permittee or owner or operator shall conduct monitoring or testing of tanks, associated equipment, contents, or surrounding soils, air, surface water, or groundwater and shall furnish information relating to tanks, associated equipment, and tank contents, and any duly authorized representative of the Secretary may upon presentation of appropriate credentials at any reasonable time:

(1) enter any property where underground storage tanks are located;

(2) inspect and obtain samples;

(3) inspect and copy records, reports, information, or test results relating to the purposes of this chapter;

(4) conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water, or groundwater;

(5) conduct corrective action;

(6) upon refusal of entry by a permittee or owner or operator for inspection, sampling, monitoring or testing, corrective action, or copying pursuant to this section, the Secretary or the duly authorized representative may apply for and obtain an entry order or subpoena, or both, to allow such entry, inspection, sampling, monitoring or testing, corrective action, or copying from the District or Superior Court in whose jurisdiction the property is located. An entry order or subpoena, or both, shall issue upon a showing that:

(A) there is probable cause to believe an underground storage tank is located on the property;

(B) entry onto the property has been requested; and

(C) entry has been denied. (Added 1985, No. 66, § 1; amended 1987, No. 282 (Adj. Sess.), § 10; 1989, No. 110, § 5, eff. June 20, 1989.)

§ 1932. Orders

Upon receiving information that the operation, maintenance, or condition of an underground storage tank or the surrounding environs may present a threat or a hazard to the health of persons or to the environment, or may present an actual or threatened violation of any provision of this chapter, the Secretary may issue to the owner or operator an order establishing reasonable and proper methods for the control of the activity, tank closure, removal of contaminated materials, and the management of substances in the tank or the surrounding environs in order to reduce or eliminate the hazard or the violation. Orders of the Secretary may include requiring the owner to undertake investigations on properties of the owner. (Added 1985, No. 66, § 1; amended 1987, No. 282 (Adj. Sess.), § 11.)

§ 1933. Appeals

Appeals of any act or decision of the Department under this subchapter shall be made in accordance with chapter 220 of this title. (Added 1985, No. 66, § 1; amended 1995, No. 57, § 3; 2003, No. 115 (Adj. Sess.), § 43, eff. Jan. 31, 2005.)

§ 1934. Enforcement

(a) Notwithstanding any other provisions or procedure set forth in this chapter, if the Secretary finds that a person is in violation of this chapter or has failed to comply with any provisions of any order, standard, rule, or permit issued in accordance with this chapter, he or she may bring suit in the Superior Court in any county where the noncompliance has occurred to enjoin the act and to obtain compliance. The suit shall be brought by the Attorney General or the appropriate State's Attorney in the name of the State for injunctive relief or for the imposition of penalties and fines as provided in section 1935 of this title. The court may issue a temporary injunction or order in such proceedings and may exercise all plenary powers available to it in addition to the power to:

(1) enjoin further releases;

(2) order design, construction, installation, or operation of alternate facilities;

(3) order the removal of facilities, contaminated soils and the restoration of the environment;

(4) fix and order compensation for any public or private property destroyed, damaged, or injured;

(5) assess and award punitive damages;

(6) order reimbursement to any agency of federal, State, or local government from any person whose acts caused governmental expenditures under section 1283 of this title, or under subdivision 1941(b)(3) or (7) of this title and in accordance with the provisions of subsection 1941(f) of this title.

(b) In addition to the remedies described in subsection (a) of this section, if the Secretary finds that a person has installed, removed, repaired, or tested an underground storage tank in violation of this chapter or the rules adopted under this chapter, the person who installed, removed, repaired, or tested the tank may be subject to penalties and required to take all actions necessary to correct the violation in accordance with the provisions of chapters 201 and 211 of this title. (Added 1985, No. 66, § 1; amended 1989, No. 110, § 6, eff. June 20, 1989; 1997, No. 12, § 1.)

§ 1935. Penalties

(a) Criminal penalty. Any person who knowingly or intentionally violates any provision of this chapter or the rules promulgated herein, or any permits or any order standards issued in accordance with this chapter shall be subject to a criminal penalty not to exceed \$25,000 or imprisonment for not more than six months, or both.

(b) Civil penalty. Any person who violates any provision of this chapter, the rules promulgated herein or the terms and conditions of any order or permit issued by the secretary, shall be subject to a civil penalty not to exceed \$10,000.00 per storage tank.

(c) Each violation may be a separate and distinct offense and in the case of a continuing violation, each day's continuance thereof may be deemed a separate and distinct offense. (Added 1985, No. 66, § 1; amended 1989, No. 110, § 7, eff. June 20, 1989.)

§ 1936. Licensure of tank inspectors

(a) The Secretary may establish a process for licensing persons to perform tank integrity demonstrations, as provided by this section. Under that process, the Secretary shall charge a fee, in accordance with 3 V.S.A. § 2822. The Secretary shall license persons who demonstrate to the satisfaction of the Secretary that they possess the ability to perform tank integrity demonstrations. This demonstration of ability may consist of written and field examinations and may establish different types of licenses for different types of demonstrations. No person shall be required to obtain a license in order to carry out duties as a State employee.

(b) After offering opportunity for hearing before the Secretary or a hearing officer, the Secretary may revoke the license of any tank inspector who has committed fraud or deceit in obtaining licensure or submitting an application or who has demonstrated gross negligence or incompetence in performing a tank integrity demonstration or in other work relating to a tank integrity demonstration. (Added 1985, No. 66, § 1; amended 1987, No. 76, § 7; 1991, No. 85, § 3.)

Subchapter 2: Underground Storage Tank Assistance Program

§ 1938. Underground Storage Tank Trust Fund

There is hereby created in the State Treasury a fund to be known as the Underground Storage Tank Trust Fund, to be expended by the Secretary of Natural Resources as allowed by federal law. The Secretary may accept and use funds available through the federal underground storage tank trust fund for those purposes. All balances in the Fund at the end of any fiscal year shall be carried forward and remain a part of the fund. Interest earned by the Fund shall be deposited into the Fund. The Secretary may seek reimbursement of the funds expended. Funds recovered shall be deposited as required by federal regulations. Disbursements from the Fund shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management. (Added 1987, No. 85, § 2, eff. June 9, 1987; amended 1987, No. 76, § 18.)

§ 1939. Risk retention pool

The owners and operators of underground storage tanks may obtain the advice of the Commissioner of Financial Regulation, and may establish an insurance pool. The Commissioner shall adopt rules to assist in the formation of such pools and to expedite approval of any plan of operation. The Commissioner shall also adopt rules relating to the administration and operation of such pools in order to provide for the fiscal integrity of agreements entered into and to provide that trade, market, and claim practices engaged in are equitable, fair, and consistent. The establishment of such a pool shall conform to all requirements of the Commissioner of Financial Regulation and applicable State and federal laws, rules, and regulation. (Added 1987, No. 85, § 2, eff. June 9, 1987; amended 1989, No. 225 (Adj. Sess.), § 25; 1995, No. 180 (Adj. Sess.), § 38(a); 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012.)

§ 1940. Underground storage tank incentive program

(a) The owners of a retail gasoline outlet that sells less than 20,000 gallons of gasoline per month and that desire assistance to replace underground storage tanks in compliance with this chapter, and municipalities with a population of less than 2,500 people may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to \$5,000.00 or the cost of complying with the requirements of this chapter, whichever is less.

(b) The application shall be supported by information covering:

- (1) proof of tank ownership;
- (2) an estimated cost of tank replacement;
- (3) the amount and type of assistance requested;
- (4) a tank replacement schedule;
- (5) in the case of gasoline stations, the monthly volume of gasoline sales for the previous 12 months;
- (6) such other information and assurances as the Secretary may require.

(c) In cases of applications from the owners of retail gasoline outlets, priority shall be given to those applicants from areas with a low density of retail gasoline outlets and for whom the expense of tank replacement is likely to cause termination of retail gasoline services.

(d) Assistance in accordance with this section shall be provided from funds authorized for this purpose from the oil overcharge funds. (Added 1987, No. 85, § 2, eff. June 9, 1987.)

§ 1941. Petroleum Cleanup Fund

(a) A fund to be known as the Petroleum Cleanup Fund is created in the State Treasury, to be expended by the Secretary of Natural Resources. The Fund shall consist of licensing fees and petroleum tank fees assessed under the provisions of this chapter, loan repayments, and disbursements that have been recovered, except for underground storage tank permit fees and licensing fees for tank inspectors. The Fund shall have two accounts: the Motor Fuel Account and the Heating Fuel Account. The Motor Fuel Account shall consist of all monies deposited into the Fund, with the exception of the licensing fees for heating oil and kerosene described in section 1942 of this title. The Heating Fuel Account shall consist of all the monies deposited into the Fund from the licensing fees for heating oil and kerosene sold or used in the State. All balances in the Fund at the end of any fiscal year shall be carried forward and remain a part of the Fund. The Secretary may transfer money, in each fiscal year, between the accounts, provided that the transfer is approved by the advisory committee established under subsection (e) of this section and does not exceed \$750,000.00. Interest

earned by the Fund shall be deposited into the Fund. Disbursements from the Fund shall be made by the State Treasurer on warrants drawn by the Commissioner of Finance and Management. The Secretary shall seek to recover from responsible parties costs incurred under subdivision (b)(8) of this section.

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2029 and judged to be in conformance with prevailing industry rates. This includes:

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

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

(i) after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of double-wall tank systems used for commercial purposes;

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

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

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

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

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

(D) an aboveground storage tank site after the first \$1,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes, or after the first \$250.00 of the cleanup costs have been borne by the owners or operators of residential and farm tanks. Disbursements under this subdivision (b)(1)(D) on any individual site shall not exceed \$25,000.00. These disbursements shall be made from the Motor Fuel Account or Heating Fuel Account, depending upon the use or contents of the tank;

(E) a bulk storage aboveground motor fuel or heating fuel storage tank site after the first \$10,000.00 of the cleanup costs have been borne by the owners or operators of tanks used for commercial purposes. Disbursements under this subdivision (b)(1)(E) on any individual site shall not exceed \$990,000.00. These disbursements shall be made from the Motor Fuel Account;

(F) if a site is contaminated by petroleum releases from both heating fuel and motor fuel tanks, or where the source of the petroleum contamination has not been ascertained, the Secretary shall have the discretion to disburse funds from either the Heating Fuel or Motor Fuel Account, or both;

(2) costs incurred in compensating third parties for bodily injury and property damage, as approved by the Secretary in consultation with the Commissioner of Financial Regulation caused by release of petroleum from an underground category one storage tank into the environment from a site, up to \$1 million, but shall not include payment of any punitive damages;

(3) costs incurred in taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank or aboveground storage tank if, in the judgment of the Secretary, such action is necessary to protect the public health and the environment. The Secretary may seek reimbursement of the first \$10,000.00 of the costs;

(4) the cost of corrective action up to \$1 million for any release of petroleum into the environment from an underground storage tank or tanks:

(A) whose owner, in the judgment of the Secretary, is incapable of carrying out the corrective action; or

(B) whose owner or operator cannot be determined; or

(C) [Repealed.]

(D) whose owner, in the judgment of the Secretary, is financially incapable of carrying out the corrective action in a timely manner;

(5) [Repealed.]

(6) the costs of creating and operating a risk retention pool authorized by section 1939 of this title, which costs are in excess of a reasonable contribution by participants, as determined by the Secretary with the advice of the Commissioner of Financial Regulation. The authority for disbursements under this subdivision shall terminate on June 1, 1992;

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

(8) the cost of initiating spill control procedures, removal actions, and remedial actions to clean up spills of oil and other petroleum products where the responsible party is unknown, cannot be contacted, is unwilling to take action, or does not take timely action that the Secretary considers necessary.

(c) The Secretary may use up to one-half the amount deposited to the Motor Fuel Account of the Fund from the licensing fees assessed under section 1942 of this title to capitalize the Underground Motor Fuel Storage Tank Loan Assistance Program established by section 1944 of this title and the cost of administering the Program. If the Secretary determines that a balance will remain after all qualifying loan applications have been satisfied, the unneeded balance may be used for cleanup. The Secretary may use the amount in the Heating Fuel Account of the Fund for purposes of funding measures related to heating oil and kerosene.

(d) Disbursements from the Fund for cleanup costs incurred prior to passage shall be limited to uninsured costs.

(e) The Secretary shall establish a Petroleum Cleanup Fund Advisory Committee that shall meet not less than annually to review receipts and disbursements from the Fund, to evaluate the effectiveness of the Fund in meeting its purposes and the reasonableness of the cost of cleanup, and to recommend alterations and statutory amendments deemed appropriate. The Advisory Committee shall submit an annual report of its findings to the General Assembly on January 15 of each year. In its annual report, the Advisory Committee shall review the financial stability of the Fund, evaluate the implementation of assistance related to underground farm or residential heating fuel storage tanks and aboveground storage tanks, and the need for continuing assistance, and shall include recommendations for sustainable funding sources to finance the provision of that assistance. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. The membership of the Committee shall include the following or their designated representative:

(1) the Secretary of Natural Resources who shall be chair;

(2) the Commissioner of Environmental Conservation;

- (3) the Commissioner of Financial Regulation;
- (4) a licensed gasoline distributor;
- (5) a retail gasoline dealer;
- (6) a representative of a statewide refining-marketing petroleum association;
- (7) one member of the House to be appointed by the Speaker of the House;
- (8) one member of the Senate to be appointed by the Committee on Committees;
- (9) a licensed heating fuel dealer;
- (10) a representative of a statewide heating fuel dealers' association;
- (11) a licensed real estate broker.

(f) The Secretary may seek reimbursement to the Fund of cleanup expenditures only when the owner of the tank is in significant violation of his or her permit or rules, or when a required fee has not been paid for the tank from which the release occurred or, to the extent covered, when there is insurance coverage. When the Secretary has paid the first \$10,000.00 of costs under subdivision (b)(4)(D) of this section, the Secretary may seek reimbursement of those costs.

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to: \$2,000.00 or the costs of closure, replacement, or upgrade, whichever is less for an aboveground storage tank located inside a structure; up to \$3,000.00 or the costs of closure, replacement, or upgrade, whichever is less for an aboveground storage tank located outside a structure; and up to \$4,000.00 or the costs of closure, replacement, or upgrade, whichever is less for an underground storage tank. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to \$400,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

- (1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;
- (2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;
- (3) identification of the contractor performing any heating fuel storage tank closure, replacement, or upgrade;
- (4) an estimated cost of tank closure, replacement, or upgrade;
- (5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require. (Added 1987, No. 282 (Adj. Sess.), § 1; amended 1989, No. 110, §§ 8, 8a, eff. June 20, 1989; 1989, No. 225 (Adj. Sess.), § 25; 1991, No. 50, § 197a; 1991, No. 85, § 4; 1991, No. 225 (Adj. Sess.), § 2; 1993, No. 188 (Adj. Sess.), § 1; 1995, No. 180 (Adj. Sess.), § 38; 1997, No. 12, §§ 2, 3; 1997, No. 132 (Adj. Sess.), § 8, eff. April 23, 1998; 1997, No. 155 (Adj. Sess.), § 36; 1999, No. 128 (Adj. Sess.), § 1; 2003, No. 48, § 1, eff. June 2, 2003; 2003, No. 153 (Adj. Sess.), § 1; 2007, No. 18, § 3; 2007, No. 192 (Adj. Sess.), § 6.002; 2009, No. 22, § 4; 2009, No. 160 (Adj. Sess.), § 42; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012; 2013, No. 55, § 3, eff. May 30, 2013; 2013, No. 142 (Adj. Sess.), § 19; 2015, No. 66 (Adj. Sess.), § 1, eff. Feb. 10, 2016; 2015, No. 76 (Adj. Sess.), § 2; 2017, No. 158 (Adj. Sess.), § 38; 2017, No. 168 (Adj. Sess.), § 10, eff. May 22, 2018.)

§ 1941a. Repealed. 2003, No. 55, §§ 9(1) and (2), eff. May 30, 2013 and Jan. 1, 2018.

§ 1942. Petroleum distributor licensing fee

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this State, that will be assessed against every distributor, dealer, or user as defined in 23 V.S.A. chapters 27 and 28, and that will be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the General Assembly on the balance of the Motor Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Motor Fuel Account as of May 15 of each year, and if the balance is equal to or greater than \$7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee shall be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee shall be collected by the Commissioner of Motor Vehicles and deposited into the Petroleum Cleanup Fund. This fee requirement shall terminate on April 1, 2031.

(b) There is assessed a licensing fee of one cent per gallon for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this State. This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233, and the fees collected under this subsection by the Commissioner of Taxes shall be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the General Assembly on the balance of the Heating Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Heating Fuel Account as of May 15 of each year, and if the balance is equal to or greater than \$3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate on April 1, 2031. (Added 1987, No. 282 (Adj. Sess.), § 2, eff. April 1, 1989; amended 1989, No. 110, § 9, eff. June 20, 1989; 1993, No. 188 (Adj. Sess.), § 2; 1997, No. 132 (Adj. Sess.), § 9, eff. April 23, 1998; 2003, No. 48, § 2, eff. June 2, 2003; 2003, No. 153 (Adj. Sess.), § 2; 2007, No. 18, § 4; 2007, No. 192 (Adj. Sess.), § 7.006; 2009, No. 4, § 127, eff. April 24, 2009; 2009, No. 22, § 5; 2009, No. 160 (Adj. Sess.), § 43; 2011, No. 143 (Adj. Sess.), § 1; 2013, No. 55, § 4, eff. May 30, 2013; 2017, No. 168 (Adj. Sess.), § 11, eff. May 22, 2018.)

§ 1943. Petroleum tank assessment

(a) Each owner of a category one tank used for storage of petroleum products shall annually remit to the Secretary \$100.00 per double-wall tank system; \$250.00 per combination tank system if the single-wall tank has been lined; \$500.00 for all other combination tank systems; and \$1,000.00 per single-wall tank system, which shall be deposited to the Petroleum Cleanup Fund established by section 1941 of this title, except that:

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

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

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

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

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

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

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

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

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

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

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

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

(c) This tank assessment shall terminate on July 1, 2029.

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

(Added 1987, No. 282 (Adj. Sess.), § 3; amended 1989, No. 110, §§ 9a, 10; 1993, No. 188 (Adj. Sess.), § 3; 1997, No. 132 (Adj. Sess.), § 10, eff. April 23, 1998; 2003, No. 48, § 3, eff. June 2, 2003; 2007, No. 76, § 31; 2009, No. 22, § 6; 2011, No. 161 (Adj. Sess.), § 3; 2013, No. 55, § 5, eff. July 1, 2014; 2017, No. 168 (Adj. Sess.), § 12, eff. May 22, 2018.)

§ 1944. Underground Storage Tank Loan Assistance Program

(a) The Secretary may make individual loans of up to \$150,000.00 for:

(1) the replacement or removal of category one tanks used for the storage of petroleum products. These loans shall be made from the Motor Fuel Account;

(2) the removal, or the replacement or improvement, or both, of piping, tank-top sumps, and other components of the secondary containment and release detection systems of category one tanks, for the purpose of reducing the likelihood of a release of regulated substance to the environment. These loans shall be made from the Motor Fuel Account;

(3) the removal, replacement, or upgrade of an underground or aboveground storage tank used for the storage of petroleum products for the purpose of reducing the likelihood of a release of petroleum into the environment. These loans shall be made from the Motor Fuel Account or Heating Fuel Account depending upon the use or contents of the tank.

(b) Loans shall be made to the person who owns the existing motor fuel tanks or will own the new motor fuel tanks. Loans will be in accordance with terms and conditions established by the Secretary that shall include requirements that:

(1) loans be made only for the costs associated with the replacement or removal of an underground motor fuel storage tank or improvement of piping and ancillary equipment used for the storage of petroleum products and associated facilities with a tank and facilities conforming to the requirements of this chapter;

(2) loans be secured by means satisfactory to the Secretary;

(3) proposed projects comply with all planning, zoning, laws, and regulation of the municipality where they are located and of the State of Vermont;

(4) loans have a satisfactory maturity date, in no case later than ten years from the date of the loan. The Secretary may, upon a showing of financial hardship by the person who took out the loan, extend the maturity date for not more than an additional five years.

(c) The loans will be at a zero interest rate, except that a person who owns five or more facilities shall have an interest rate of two percent. As used in this subsection, "facility" shall mean the property upon which a category one tank is located.

(d) The Secretary shall deposit repayments to the Petroleum Cleanup Fund.

(e) The Secretary may contract with other State agencies or authorities or with a commercial lending institution to carry out all or any portion of this loan program.

(f) At no time shall the amount of outstanding loans exceed the total of the amount of funds deposited to the Petroleum Cleanup Fund from the licensing fee established by section 1942 of this title.

(g) The Secretary may refinance existing loans for motor fuel tanks used for the storage of petroleum products incurred after July 1, 1987 under the same terms, conditions, and limitations that apply to initial loans. (Added 1987, No. 282 (Adj. Sess.), § 4; amended 1999, No. 128 (Adj. Sess.), § 2; 2003, No. 153 (Adj. Sess.), § 3; 2007, No. 18, § 5; 2009, No. 22, § 9; 2013, No. 55, § 6, eff. May 30, 2013.)