

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1397

By: Rice

AS INTRODUCED

An Act relating to the Corporation Commission;
amending 17 O.S. 1991, Section 303, as last amended
by Section 1, Chapter 352, O.S.L. 1994 (17 O.S.
Supp. 1996, Section 303), which relates to the
Oklahoma Underground Storage Tank Regulation Act;
adding definition; prohibiting adjacent property
owners from unduly impeding or interfering with
certain remediation procedures for underground
storage tanks; providing for liability of certain
costs; providing penalties for certain actions;
providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 1991, Section 303, as last
amended by Section 1, Chapter 352, O.S.L. 1994 (17 O.S. Supp. 1996,
Section 303), is amended to read as follows:

Section 303. As used in the Oklahoma Underground Storage Tank
Regulation Act:

1. "Abandoned system" means an underground storage tank system
which:

- a. has been taken permanently out of service as a storage vessel for any reason or is not intended to be returned to service, or
- b. has been out of service for one (1) year or more prior to April 21, 1989, or
- c. has been rendered permanently unfit for use as determined by the Commission;

2. "Adjacent property owner" means any person, other than an owner or operator, owning an interest in any property affected by a release;

3. "Commission" means the Oklahoma Corporation Commission;

~~3.~~ 4. "Corrective action" means action taken to monitor, maintain, minimize, eliminate or clean up a release from an underground storage tank system;

~~4.~~ 5. "Corrective action plan" means the plan submitted to the regulatory program of the Corporation Commission detailing the method and manner of corrective action to be taken for a release;

~~5.~~ 6. "Department" means the Department of Environmental Quality;

~~6.~~ 7. "Environment" means any water, water vapor, any land including land surface or subsurface, fish, wildlife, biota and all other natural resources;

~~7.~~ 8. "Existing system" means an underground storage tank system for which installation of that system commenced prior to April 21, 1989;

~~8.~~ 9. "Facility" means any location or part thereof containing one or more underground storage tanks or systems;

~~9.~~ 10. "Hazardous substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C., Section 9601, but not including:

- a. any substance regulated as a hazardous waste under Subtitle C of the federal Solid Waste Disposal Act, 42 U.S.C., Section 6903, or
- b. any substance regulated as a hazardous waste under the Oklahoma Hazardous Waste Management Act.

The term hazardous substance shall also include a mixture of hazardous substances and petroleum, providing the amount of petroleum is of a de minimus quantity;

~~10.~~ 11. "New system" means an underground storage tank system for which the installation of the system began on or after April 21, 1989;

~~11.~~ 12. "Operator" means any person in control of or having responsibility for the daily operation of the underground storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release or a violation of the Oklahoma Underground Storage Tank Regulation Act or of a rule promulgated thereunder;

~~12.~~ 13. "Owner" means:

- a. in the case of an underground storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to, controls, or possesses an interest in an underground storage tank system used for the storage, use, or dispensing of regulated substances, or
- b. in the case of an underground storage tank system in use before November 8, 1984, but no longer in service on that date, any person who holds title to, controls, or possesses an interest in an underground storage tank system immediately before the discontinuation of its use.

The term "owner" does not include a person who holds an interest in an underground tank system solely for financial security, unless

through foreclosure or other related actions the holder of a security interest has taken possession of the underground tank system;

~~13.~~ 14. "Permit" means any registration, permit, license or other authorization issued by the Commission to operate an underground storage tank system;

~~14.~~ 15. "Person" means any individual, trust, firm, joint stock company or corporation, limited liability company, federal agency, corporation, including a government corporation, partnership, association, the state or any state agency, municipality, county or other political subdivision of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, and the United States Government or any other legal entity;

~~15.~~ 16. "Petroleum" means ethylene glycol-based antifreeze, crude oil, crude oil fractions, and refined petroleum fractions, including motor fuel, jet fuel, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oil which are liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). "Petroleum" also means a mixture of petroleum and hazardous substances provided, the amount of the hazardous substances is of a de minimus quantity;

~~16.~~ 17. "Pipeline facilities" means new and existing pipe rights-of-way and any equipment, facilities or buildings regulated under:

- a. the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App., 1671, et seq.),
- b. the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.),
- c. the state Hazardous Liquid Transportation System Safety Act, Section 47.1 et seq. of Title 52 of the Oklahoma Statutes, or

d. intrastate pipeline facilities regulated under state law;

~~17.~~ 18. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the state, contamination or alteration of the physical, chemical or biological properties of the land surface or subsurface, when such contamination or alteration will or is likely to create a nuisance or render the waters or land harmful or detrimental or injurious to the public health, safety or welfare or the environment;

~~18.~~ 19. "Regulated substances" means hazardous substances or petroleum;

~~19.~~ 20. "Release" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching or disposing of regulated substances from an underground storage tank system into the environment of the state. The term "release" includes but is not limited to suspected releases identified as a result of positive sampling, testing or monitoring results, or identified in any similarly reliable manner;

~~20.~~ 21. "Tank" means a stationary vessel designed to contain an accumulation of regulated substances which is constructed of primarily non-earthen materials that provide structural support;

~~21.~~ 22. "Transporter" means any person who transports, delivers or distributes any quantity of regulated substance from one point to another for the purpose of wholesale or retail gain;

~~22.~~ 23. "Underground storage tank system" means any one or combination of underground tanks, including underground piping connected thereto, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground piping connected thereto, is ten percent (10%) or more beneath the surface of the ground; and

~~23.~~ 24. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oklahoma or any portion thereof.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 312.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. No adjacent property owner shall unduly impede or interfere with any efforts of the Corporation Commission or the owner or operator to undertake investigation, site assessment, or corrective action in accordance with the requirements of the Oklahoma Underground Storage Tank Regulation Act.

B. Any adjacent property owner violating subsection A of this section shall be liable for any investigation, site assessment, or corrective action costs resulting from such violation.

C. If the adjacent property owner denies access to property when such access is reasonably necessary for investigation, site assessment, or corrective action undertaken by the Corporation Commission, or by the owner or operator pursuant to a Corporation Commission directive, order, or approved corrective action plan, the Corporation Commission may order the adjacent property owner to undertake the portion of investigation, site assessment, or corrective action which was prohibited by the denial of access.

SECTION 3. This act shall become effective November 1, 1997.

46-1-6149 KSM