

Assembly Bill No. 1906

CHAPTER 774

An act to amend Section 25299.43 of, and to add and repeal Section 25299.50.2 of, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 24, 2004. Filed with Secretary of State September 25, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1906, Lowenthal. Hazardous materials: petroleum: underground storage tanks: cleanup: fees.

Existing law requires the owner or operator of an underground petroleum storage tank, or other responsible party, to take corrective action, as defined, in response to an unauthorized release of petroleum from the tank. A person required to perform corrective action may apply to the State Water Resources Control Board for payment of specified portions of the costs of corrective action. Existing law establishes the Underground Storage Tank Cleanup Fund in the State Treasury and authorizes the money in the fund to be used, upon appropriation by the Legislature, to pay those claims, and, among other things, for corrective actions undertaken by the board, a California regional water quality control board, or a local agency, and for the cleanup and oversight of unauthorized releases at abandoned tank sites. Existing law imposes certain petroleum storage fees upon the owner of an underground storage tank for which a permit is required and requires those fees to be deposited in the fund.

This bill would increase a specified petroleum storage fee by \$0.001 \$0.002 per gallon of petroleum stored, on and after January 1, 2005, and by an additional \$0.001 per gallon of petroleum stored, on and after January 1, 2006. By operation of existing law, the revenue resulting from the increase would be required to be deposited in the fund and be available, upon appropriation, for expenditure for the purposes authorized under existing law for money in the fund.

The bill would establish the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount in the fund and would require \$10,000,000 to be annually transferred for calendar years 2005, 2006, and 2007, into that subaccount, for expenditure, upon appropriation by the Legislature, for the costs of response action to remediate the harm caused by petroleum contamination at specified sites, if petroleum contamination is the site's principal source of



contamination, the source of the contamination is, or was, an underground storage tank, and a financially responsible party has not been identified. The bill would repeal the subaccount on January 1, 2008, and transfer the remaining funds in the subaccount, on that date, to the fund.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The petroleum underground storage tank cleanup fees authorized under Article 5 (commencing with Section 25299.40) of Chapter 6.75 of Division 20 of the Health and Safety Code were last increased on January 1, 1997.

(b) The value of those fees has been eroded by inflation.

(c) The average cost of cleanup per claim under the petroleum underground storage tank cleanup program (Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code) has greatly increased since the inception of that program.

(d) It is substantially uncertain that the existing cleanup program will generate sufficient funds to pay all claimants under the program, particularly class D claimants, as identified in paragraph (4) of subdivision (b) of Section 25299.52 of the Health and Safety Code.

(e) The modest fee increases authorized under this act are intended to ensure that all claimants under the cleanup program will have a reasonable opportunity to have approved claims paid before the expiration of the cleanup program, as was envisioned when the program was initially established.

SEC. 2. Section 25299.43 of the Health and Safety Code is amended to read:

25299.43. (a) To implement the changes to this chapter made by the act adding this section, and consistent with Section 25299.40, effective January 1, 1995, every owner subject to Section 25299.41 shall pay a storage fee of one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank which the person owns, in addition to the fee required by Section 25299.41.

(b) On and after January 1, 1996, the storage fee imposed under subdivision (a) shall be increased by two mills (\$0.002) for each gallon of petroleum placed in an underground storage tank.

(c) On and after January 1, 1997, the storage fee increased under subdivision (b) shall be increased by an additional three mills (\$0.003) for each gallon of petroleum placed in an underground storage tank.



(d) On and after January 1, 2005, the storage fee increased under subdivision (c) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

(e) On and after January 1, 2006, the storage fee increased under subdivision (d) shall be increased by an additional one mill (\$0.001) for each gallon of petroleum placed in an underground storage tank.

(f) The fee imposed under this section shall be paid to the State Board of Equalization under Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed under Section 24299.41.

(g) The State Board of Equalization shall amend the regulations adopted under Section 25299.41 to carry out this section.

SEC. 3. Section 25299.50.2 is added to the Health and Safety Code, to read:

25299.50.2. (a) The Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount is hereby established in the Underground Storage Tank Cleanup Fund.

(b) The sum of 10 million dollars (\$10,000,000) is hereby annually transferred, for calendar years 2005, 2006, and 2007, from the fund to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount, for expenditure upon appropriation by the Legislature, for the costs of response actions to remediate the harm caused by a petroleum contamination, including contamination caused by a refined product of petroleum or a petroleum derivative, at sites that meet the conditions described in paragraph (2) of subdivision (a) of Section 25395.20, if all of the following conditions are met:

(1) The petroleum contamination is the principal source of contamination at the site.

(2) The source of the petroleum contamination is, or was, an underground storage tank.

(3) A financially responsible party has not been identified to pay for remediation at the site.

(c) Any funds in the subaccount that are not expended in calendar year 2005 and 2006 shall remain in the subaccount. Any funds remaining in the subaccount on January 1, 2008, shall be transferred to the fund.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

