

2023 SENATE ENERGY AND NATURAL RESOURCES

SB 2075

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2075
1/5/2023

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| A bill relating to corrective action reimbursement for petroleum release. |
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1:30pm Chairman Patten called the meeting to order.

Chairman Patten, Senators Magrum, Beard, Kannianen, Boehm and Kessel are present.

Discussion Topics:

- Reimbursement Claims
- Petroleum Releases

1:31pm Duane Sandvick, Program Manager of the Petroleum Tank Release Compensation Fund introduced the bill and provided written testimony #12263.

1:47pm Public Hearing is closed.

Additional Written Testimony:

Mike Rud, ND Petroleum Council provided written testimony #12401

1:47pm The chairman closed the meeting

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2075
1/6/2023

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| A bill relating to corrective action reimbursement for petroleum releases. |
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11:21am Chariman Patten called the meeting to order.

Present are Chairman Patten and Senators Kessel, Kannianen, Boehm, Beard, and Magrum.

Discussion Topics

- Biodiesel
- Ethanol

11:21am Senator Kessel makes a motion to amend, add ethanol and biodiesel to the bill.

11:21am Senator Kannianen states there were additional amendments discussed as well.

11:23am Chariman Patten suggests needing a printed copy of proposed amendments before proceeding further.

11:23 Senator Kessel withdraws his motion.

11:24am Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Peace Garden Room, State Capitol

SB 2075
1/19/2023

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| A BILL for an Act relating to corrective action reimbursement for petroleum releases. |
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Committee work

2:30 PM Chairman Patten called the meeting to order.

Chairman Patten, Senators, Magrum, Beard, Boehm, Kannianen, Kessel present.

Discussion Topics:

- Ethanol
- Bio diesel
- DEQ

2:32 PM Senator Kannianen said that he had the amendment drafted.

2:36 PM Senator Patten closed the meeting.

Patricia Wilkens, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2075
1/20/2023

A BILL relating to corrective action reimbursement for petroleum releases.

10:15 AM Chairman Patten started the meeting.

Present were Chairman Patten, Senators, Magrum, Beard, Boehm, Kannianen, Kessel.

Discussion Topics:

- Substantial compliance
- Funds denial
- Committee action

10:15 AM Duane Sandvick, Petroleum Manager, ND Petroleum Tank Release Compensation Fund, testified and written. #14827

10:22 AM Senator Boehm moved Amendment LC 23.8032.01001.

10:22 AM Senator Kessel seconded the motion.

| Senators | Vote |
|-----------------------------|------|
| Senator Dale Patten | Y |
| Senator Jeffery J. Magrum | Y |
| Senator Todd Beard | Y |
| Senator Keith Boehm | Y |
| Senator Jordan L. Kannianen | Y |
| Senator Greg Kessel | Y |

Motion Passed 6-0-0

10:23 AM Senator Boehm motioned **DO PASS SB 2075** as amended.

10:23 AM Senator Kessel seconded the motion.

| Senators | Vote |
|-----------------------------|------|
| Senator Dale Patten | Y |
| Senator Jeffery J. Magrum | Y |
| Senator Todd Beard | Y |
| Senator Keith Boehm | Y |
| Senator Jordan L. Kannianen | Y |
| Senator Greg Kessel | Y |

Motion Passed 6-0-0

Senator Boehm will carry the bill.

10:24 AM Chairman Patten closed the meeting.

Patricia Wilkens, Committee Clerk

January 10, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2075

Page 1, line 1, after "reenact" insert "subsection 13 of section 23.1-12-02 and"

Page 1, line 2, after "to" insert "the definition of tank and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 13 of section 23.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

13. "Tank" means any one or a combination of containers, vessels, and enclosures, whether aboveground or underground, including associated piping or appurtenances used to contain an accumulation of petroleum, ethanol, or biodiesel. The term does not include:
 - a. Tanks owned by the federal government.
 - b. Tanks used for the transportation of petroleum.
 - c. A pipeline facility, including gathering lines:
 - (1) Regulated under the Natural Gas Pipeline Safety Act of 1968.
 - (2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979.
 - (3) Regulated under state laws comparable to the provisions of law in paragraph 1 or 2, if the facility is an interstate pipeline facility.
 - d. An underground farm or residential tank with a capacity of one thousand one hundred gallons [4163.94 liters] or less or an aboveground farm or residential tank of any capacity used for storing motor fuel for noncommercial purposes. However, the owner of an aboveground farm or residential tank may, upon application, register the tank and be eligible for reimbursement under this chapter.
 - e. A tank used for storing heating oil for consumptive use on the premises where stored.
 - f. A surface impoundment, pit, pond, or lagoon.
 - g. A flowthrough process tank.
 - h. A liquid trap or associated gathering lines directly related to oil or gas production or gathering operations.
 - i. A storage tank situated in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor.
 - j. A tank used for the storage of propane.
 - k. A tank used to fuel rail locomotives or surface coal mining equipment.

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1/20/2023
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- l. An aboveground tank used to feed diesel fuel generators. Upon application, the owner or operator of an aboveground tank used to feed diesel fuel generators may register the tank and is eligible for reimbursement under this chapter.
- m. A portable tank.
- n. A tank with a capacity under one thousand three hundred twenty gallons [4996.728 liters] used to store lubricating oil.
- o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than twenty thousand gallons [75708.24 liters]."

DR
1/20/2023
Zyz

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2075: Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2075 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "reenact" insert "subsection 13 of section 23.1-12-02 and"

Page 1, line 2, after "to" insert "the definition of tank and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 13 of section 23.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

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 - a. Tanks owned by the federal government.
 - b. Tanks used for the transportation of petroleum.
 - c. A pipeline facility, including gathering lines:
 - (1) Regulated under the Natural Gas Pipeline Safety Act of 1968.
 - (2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979.
 - (3) Regulated under state laws comparable to the provisions of law in paragraph 1 or 2, if the facility is an interstate pipeline facility.
 - d. An underground farm or residential tank with a capacity of one thousand one hundred gallons [4163.94 liters] or less or an aboveground farm or residential tank of any capacity used for storing motor fuel for noncommercial purposes. However, the owner of an aboveground farm or residential tank may, upon application, register the tank and be eligible for reimbursement under this chapter.
 - e. A tank used for storing heating oil for consumptive use on the premises where stored.
 - f. A surface impoundment, pit, pond, or lagoon.
 - g. A flowthrough process tank.
 - h. A liquid trap or associated gathering lines directly related to oil or gas production or gathering operations.
 - i. A storage tank situated in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor.
 - j. A tank used for the storage of propane.
 - k. A tank used to fuel rail locomotives or surface coal mining equipment.

- i. An aboveground tank used to feed diesel fuel generators. Upon application, the owner or operator of an aboveground tank used to feed diesel fuel generators may register the tank and is eligible for reimbursement under this chapter.
- m. A portable tank.
- n. A tank with a capacity under one thousand three hundred twenty gallons [4996.728 liters] used to store lubricating oil.
- o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than twenty thousand gallons [75708.24 liters]."

Renumber accordingly

2023 HOUSE ENERGY AND NATURAL RESOURCES

SB 2075

2023 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau AB Room, State Capitol

SB 2075
3/2/2023

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|------------------------------------------------------------------------------------------------|
| Relating to the definition of tank and corrective action reimbursement for petroleum releases. |
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1:51 PM Chairman Porter opened the hearing. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Marschall, Novak, Olson, Roers Jones, and Ruby. Absent: Rep Kasper.

Discussion Topics:

- Ethanal and Biodiesel
- Release compensation fund
- EPA or state fire marshal
- Phase 1 or 2 Environmental Assessment

Duane Sandvick, Program Manager, Petroleum Tank Compensation Fund, ND DEQ,
Testimony 21710

Mike Rud, ND Petroleum Marketers, oral testimony

2:05 PM Chairman Porter closed the hearing.

Rep D Anderson moved a Do Pass, seconded by Rep Olson.

| Representatives | Vote |
|------------------------------------|------|
| Representative Todd Porter | Y |
| Representative Dick Anderson | Y |
| Representative Glenn Bosch | Y |
| Representative Liz Conmy | Y |
| Representative Jason Dockter | Y |
| Representative Jared Hagert | Y |
| Representative Pat D. Heinert | Y |
| Representative Zachary Ista | Y |
| Representative Jim Kasper | AB |
| Representative Andrew Marschall | Y |
| Representative Anna S. Novak | Y |
| Representative Jeremy Olson | Y |
| Representative Shannon Roers Jones | Y |
| Representative Matthew Ruby | Y |

13-0-1 Motion carried. Rep D. Anderson is carrier.

2:06 PM Meeting adjourned.

Kathleen Davis, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2075, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2075 was placed on the Fourteenth order on the calendar.

TESTIMONY

SB 2075



Testimony in Support of
Senate Bill No. 2075
Senate Energy and
Natural Resources Committee
January 5, 2023

TESTIMONY OF

Duane Sandvick, Program Manager of the Petroleum Tank Release Compensation Fund

Good afternoon, Chairman Patton and members of the Senate Energy and Natural Resources Committee. My name is Duane Sandvick. I am the Program Manager of the Petroleum Tank Release Compensation Fund. The Fund is a program administered by the Department of Environmental Quality. I am here to testify in support of Senate Bill 2075.

The Department of Environmental Quality supports amending subsection 1 of section 23.1-12-18 of the North Dakota Century Code, relating to corrective action reimbursement for petroleum releases. The current language gives the Petroleum Tank Release Compensation Fund little flexibility when considering claim reimbursement for petroleum releases at registered sites. The reimbursement claim filed by the site's owner, under the current state statute, must be denied if the site is not compliant with state and federal rules. The Petroleum Tank Release Compensation Fund would be obligated to deny a reimbursement claim even in the event the compliance issue was not related to the petroleum release.

The proposed amendment to subdivision a of subsection 1 of section 23.1-12-18 provides language stating the tank was in substantial compliance with all applicable rules of the United States Environmental Protection Agency, the state fire marshal, and the department. Substantial compliance is determined by the department using three criteria considering: (1) the purposes of chapter 23.1-12, (2) the adverse effect that the violation of the rules may have had on the tank, thereby causing or contributing to the release, and (3) the extent of the remedial action required. The proposed amended subsection 1 would allow the Petroleum Tank Release Compensation Fund more latitude when accepting or denying the reimbursement claim filed by the site's owner.

The Department of Environmental Quality supports a proposal to add an amendment to subsection 13 of section 23.1-12-02 of the North Dakota Century Code. Subsection 13 is amended and reenacted as follows:

13. "Tank" means any one or a combination of containers, vessels, and enclosures, whether aboveground or underground, including associated piping or appurtenances, used to contain an accumulation of petroleum, ethanol, or biodiesel. The term does not include:

o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than twenty thousand gallons [75708 liters]."

The addition of ethanol or biodiesel to subsection 13 provides the Petroleum Tank Release Compensation Fund with the ability to register tanks containing these fuel products. The addition of subsection 13(o) of section 23.1-12-02 exempts tanks used in wholesale from eligibility to register with the Petroleum Tank Release Compensation Fund if the contents of ethanol or biodiesel amount to over 20000 gallons [75708 liters] in capacity.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for Senate Bill 2075. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2075

Page 1, line 1, after “reenact” insert “subsection 13 of section 23.1-12-02 and”

Page 1, after line 4, insert:

“SECTION 1. AMENDMENT. Subsection 13 of section 23.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

13. “Tank” means any one or a combination of containers, vessels, and enclosures, whether aboveground or underground, including associated piping or appurtenances used to contain an accumulation of petroleum, ethanol, or biodiesel. The term does not include:
 - a. Tanks owned by the federal government.
 - b. Tanks used for the transportation of petroleum.
 - c. A pipeline facility, including gathering lines:
 - (1) Regulated under the Natural Gas Pipeline Safety Act of 1968.
 - (2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979.
 - (3) Regulated under state laws comparable to the provisions of law in paragraph 1 or 2, if the facility is an interstate pipeline facility.
 - d. An underground farm or residential tank with a capacity of one thousand one hundred gallons [4163.94 liters] or less or an aboveground farm or residential tank of any capacity used for storing motor fuel for noncommercial purposes. However, the owner of an aboveground farm or residential tank may, upon application, register the tank and be eligible for reimbursement under this chapter.
 - e. A tank used for storing heating oil for consumptive use on the premises where stored.
 - f. A surface impoundment, pit, pond, or lagoon.
 - g. A flowthrough process tank.
 - h. A liquid trap or associated gathering lines directly related to oil or gas production or gathering operations.

- i. A storage tank situated in an underground area such as a basement, cellar, mine working, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor.
- j. A tank used for the storage of propane.
- k. A tank used to fuel rail locomotives or surface coal mining equipment.
- l. An aboveground tank used to feed diesel fuel generators. Upon application, the owner or operator of an aboveground tank used to feed diesel fuel generators may register the tank and is eligible for reimbursement under this chapter.
- m. A portable tank.
- n. A tank with a capacity under one thousand three hundred twenty gallons [4996.728 liters] used to store lubricating oil.
- o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than twenty thousand gallons [75708 liters].”

Page 1, line 5, replace the first “1” with “2”

Renumber accordingly



ND Petroleum Marketers Association

1014 East Central Avenue • PO Box 1956
Bismarck, ND 58502 • Telephone 701-223-3370
www.ndpetroleum.org • Fax 701-223-5004

Testimony - SB 2075

January 5, 2023 - Senate Energy and Natural Resources Committee

Chairman Patten and Members of the Senate Energy and Natural Resources Committee:

For the record, I'm Mike Rud, President of the North Dakota Petroleum Marketers Association. Our Membership represents well over 700 retail store fronts in North Dakota.

NDPMA urges a **"DO PASS" recommendation on SB 2075.**

The Petroleum Tank Release Compensation Fund is a critical component in the retail fuel industry. NDPMA supports all efforts the Department of Environmental Quality is taking to ensure this fund remains viable and financially solvent into the future. This can only be achieved by continuing to enhance regulations and enforcement ensuring petroleum marketers are in compliance with all aspects of this insurance program. The constant reviewal and updating of these tank fund regulations are a win for retailers, consumers and perhaps most importantly, the environment.

NDPMA urges a **"DO PASS" recommendation on SB 2075.**

23.8032.01001

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2075

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Environmental Quality)

1 A BILL for an Act to amend and reenact subsection 13 of section 23.1-12-02 and subdivision a
2 of subsection 1 of section 23.1-12-18 of the North Dakota Century Code, relating to the
3 definition of tank and corrective action reimbursement for petroleum releases.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 13 of section 23.1-12-02 of the North Dakota
6 Century Code is amended and reenacted as follows:
7 13. "Tank" means any one or a combination of containers, vessels, and enclosures,
8 whether aboveground or underground, including associated piping or appurtenances
9 used to contain an accumulation of petroleum, ethanol, or biodiesel. The term does
10 not include:
11 a. Tanks owned by the federal government.
12 b. Tanks used for the transportation of petroleum.
13 c. A pipeline facility, including gathering lines:
14 (1) Regulated under the Natural Gas Pipeline Safety Act of 1968.
15 (2) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979.
16 (3) Regulated under state laws comparable to the provisions of law in
17 paragraph 1 or 2, if the facility is an interstate pipeline facility.
18 d. An underground farm or residential tank with a capacity of one thousand one
19 hundred gallons [4163.94 liters] or less or an aboveground farm or residential
20 tank of any capacity used for storing motor fuel for noncommercial purposes.
21 However, the owner of an aboveground farm or residential tank may, upon
22 application, register the tank and be eligible for reimbursement under this
23 chapter.

- 1 e. A tank used for storing heating oil for consumptive use on the premises where
- 2 stored.
- 3 f. A surface impoundment, pit, pond, or lagoon.
- 4 g. A flowthrough process tank.
- 5 h. A liquid trap or associated gathering lines directly related to oil or gas production
- 6 or gathering operations.
- 7 i. A storage tank situated in an underground area such as a basement, cellar, mine
- 8 working, drift, shaft, or tunnel, if the storage tank is situated upon or above the
- 9 surface of the floor.
- 10 j. A tank used for the storage of propane.
- 11 k. A tank used to fuel rail locomotives or surface coal mining equipment.
- 12 l. An aboveground tank used to feed diesel fuel generators. Upon application, the
- 13 owner or operator of an aboveground tank used to feed diesel fuel generators
- 14 may register the tank and is eligible for reimbursement under this chapter.
- 15 m. A portable tank.
- 16 n. A tank with a capacity under one thousand three hundred twenty gallons
- 17 [4996.728 liters] used to store lubricating oil.
- 18 o. A tank used to store ethanol or biodiesel for wholesale purposes with a capacity
- 19 of greater than twenty thousand gallons [75708.24 liters].

20 **SECTION 2. AMENDMENT.** Subdivision a of subsection 1 of section 23.1-12-18 of the
21 North Dakota Century Code is amended and reenacted as follows:

- 22 a. At the time the release was discovered ~~the owner or operator and the tank were~~
- 23 ~~in compliance with state and federal rules and rules applicable to the tank,~~
- 24 ~~including rules relating to financial responsibility, rules relating to infrastructure~~
- 25 ~~compatibility, and all rules relating to health and safety which were in effect at the~~
- 26 ~~time of the release, the tank was in substantial compliance with all applicable~~
- 27 ~~rules of the United States environmental protection agency, the state fire marshal,~~
- 28 ~~and the department. The department shall determine substantial compliance by~~
- 29 ~~considering:~~
- 30 (1) The purposes of this chapter:

Sixty-eighth
Legislative Assembly

- 1 (2) The adverse effect that any violation of the rules may have had on the tank,
- 2 thereby causing or contributing to the release; and
- 3 (3) The extent of the remedial action required;



Testimony in Support of
Senate Bill No. 2075
House Energy and
Natural Resources Committee
March 2, 2023

TESTIMONY OF

Duane Sandvick, Program Manager of the Petroleum Tank Release Compensation Fund

Good afternoon, Chairman Porter and members of the House Energy and Natural Resources Committee. My name is Duane Sandvick. I am the Program Manager of the Petroleum Tank Release Compensation Fund. The Fund is a program administered by the Department of Environmental Quality. I am here to testify in support of Senate Bill 2075.

The Department of Environmental Quality supports amending subsection 13 of section 23.1-12-02 and amending subdivision "a" of subsection 1 of section 23.1-12-18 of the North Dakota Century Code.

The amendment to subsection 13 of section 23.1-12-02 adds ethanol or biodiesel to the definition of "Tank" for an accumulation of products to be covered by the Fund. The wording in "o" was added to subsection 13 for terms that are not included in the meaning of "Tank". Line "o" states: A tank used to store ethanol or biodiesel for wholesale purposes with a capacity of greater than twenty thousand gallons [75708.24 liters].

The Department of Environmental Quality (department) supports amending subsection 1 of section 23.1-12-18 of the North Dakota Century Code, relating to corrective action reimbursement for petroleum releases. The current language gives the Petroleum Tank Release Compensation Fund little flexibility when considering claim reimbursement for petroleum releases at registered sites. Under the current state statute, the reimbursement claim filed by the site's owner must be denied if the site is not compliant with state and federal rules. The Petroleum Tank Release Compensation Fund would be required to deny a site's reimbursement claim even if the compliance issue was unrelated to the petroleum release.

The proposed amendment to subdivision "a" of subsection 1 of section 23.1-12-18 provides language stating the tank was in substantial compliance with all applicable rules of the United States environmental protection agency, the state fire marshal, and the department. Substantial compliance is determined by the department using three criteria considering: (1) the purposes of chapter 23.1-12, (2) the adverse effect that the violation of the rules may have had on the tank, thereby causing or contributing to the release, and (3) the extent of the remedial action required. The proposed amended subsection 1 would allow the Petroleum Tank Release Compensation Fund more latitude when accepting or denying the reimbursement claim filed by the site's owner.

Mr. Chairman and committee members, this concludes my testimony. I ask your support for Senate Bill 2075. I would be happy to answer any questions.