

ENROLLED
 HB 1533

2006 Legislature

1 A bill to be entitled
 2 An act relating to petroleum contamination; creating s.
 3 376.30716, F.S.; providing definitions; creating a
 4 presumption regarding the source of a subsequently
 5 discovered discharge at certain petroleum contamination
 6 sites; providing exceptions to the application of the
 7 presumption; specifying that certain provisions concerning
 8 site rehabilitation agreements do not apply to a
 9 subsequently discovered discharge; prohibiting the
 10 Department of Environmental Protection from requiring soil
 11 or groundwater sampling relating to closure assessments at
 12 certain petroleum contamination sites; specifying
 13 responsibilities of a facility owner or operator;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 376.30716, Florida Statutes, is created
 19 to read:

20 376.30716 Cleanup of certain sites.--

21 (1) As used in this section, the term:

22 (a) "Exclusion zone" means the subsurface area within 10
 23 feet of an underground storage tank, integral piping, and
 24 dispenser, and the area between the underground storage tank and
 25 dispenser.

26 (b) "Subsequently discovered discharge" means a discharge
 27 or suspected discharge that is discovered on or after July 1,
 28 2005, at a site eligible for state funding under s. 376.305, s.

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29 376.3071, or s. 376.3072.

30 (2) As noted in s. 376.30714, it may be difficult to
31 distinguish between a discharge of petroleum products from a
32 petroleum storage system which is eligible for state funding and
33 a discharge reported after December 31, 1998, which is not
34 eligible for state funding. Until the secondary containment
35 upgrade of underground storage tanks, as required under rule 62-
36 761, Florida Administrative Code, is complete at a site, a
37 subsequently discovered discharge at the site is presumed to be
38 part of the original discharge that qualifies for state funding.
39 However, this presumption does not apply:

40 (a) If the department presents competent and substantial
41 evidence demonstrating that the subsequently discovered
42 discharge occurred from a source that is independent and
43 separate from the discharge that qualifies for state funding.

44 (b) To a site where petroleum storage systems have been
45 upgraded, prior to July 1, 2005, to secondary containment in
46 accordance with rule 62-761, Florida Administrative Code.

47 (c) To a site having newly discovered free product outside
48 the exclusion zone.

49 (d) To a site having an increase in the concentration of
50 existing petroleum contamination outside the exclusion zone of
51 1,000 percent or greater.

52 (e) To a site for which the department has, by a current
53 valid order, determined that the discharge that is eligible for
54 state funding has been cleaned up or no further action is
55 necessary.

56 (3) Section 376.30714 does not apply to a subsequently

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57 discovered discharge. The department shall not, as part of a
58 closure report or assessment for a site that is eligible for
59 state funding under s. 376.305, s. 376.3071, or s. 376.3072,
60 require soil or groundwater sampling.

61 (4) Regardless of whether the presumption specified in
62 subsection (2) applies, a facility owner or operator shall:

63 (a) Report all incidents or discharges in accordance with
64 rules of the department.

65 (b) Provide to the department a copy of all test results
66 of storage tank and piping tightness regardless of the results.

67 Section 2. This act shall take effect upon becoming a law.