By Senator Baker

20-1204A-06

1	A bill to be entitled
2	An act relating to petroleum contamination;
3	creating s. 376.30716, F.S.; providing
4	definitions; creating a presumption regarding
5	the source of a subsequently discovered
6	discharge at certain petroleum contamination
7	sites; providing exceptions to the application
8	of the presumption; specifying that certain
9	provisions concerning site rehabilitation
10	agreements do not apply to a subsequently
11	discovered discharge; prohibiting the
12	Department of Environmental Protection from
13	requiring soil or groundwater sampling relating
14	to closure assessments at certain petroleum
15	contamination sites; specifying
16	responsibilities of a facility owner or
17	operator; providing an effective date.
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19	Be It Enacted by the Legislature of the State of Florida:
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21	Section 1. Section 376.30716, Florida Statutes, is
22	created to read:
23	376.30716 Cleanup of certain sites
24	(1) As used in this section, the term:
25	(a) "Exclusion zone" means the subsurface area within
26	10 feet of an underground storage tank, integral piping, and
27	dispenser, and the area between the underground storage tank
28	and dispenser.
29	(b) "Subsequently discovered discharge" means a
30	discharge or suspected discharge that is discovered on or
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1	after July 1, 2005, at a site eligible for state funding under
2	s. 376.305, s. 376.3071, or s. 376.3072.
3	(2) As noted in s. 376.30714, it may be difficult to
4	distinguish between a discharge of petroleum products from a
5	petroleum storage system which is eligible for state funding
6	and a discharge reported after December 31, 1998, which is not
7	eligible for state funding. Until the secondary containment
8	upgrade of underground storage tanks, as required under rule
9	62-761, Florida Administrative Code, is complete at a site, a
10	subsequently discovered discharge at the site is presumed to
11	be part of the original discharge that qualifies for state
12	funding. However, this presumption does not apply:
13	(a) If the department presents competent and
14	substantial evidence demonstrating that the subsequently
	discovered discharge occurred from a source that is
15	discovered discharge occurred from a source that is
16	independent and separate from the discharge that qualifies for
16	independent and separate from the discharge that qualifies for
16 17	independent and separate from the discharge that qualifies for state funding.
16 17 18	<pre>independent and separate from the discharge that qualifies for state funding.</pre>
16 17 18 19	<pre>independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment</pre>
16 17 18 19 20	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code.
16 17 18 19 20 21	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code. (c) To a site having newly discovered free product
16 17 18 19 20 21 22	<pre>independent and separate from the discharge that qualifies for state funding.</pre>
16 17 18 19 20 21 22 23	<pre>independent and separate from the discharge that qualifies for state funding.</pre>
16 17 18 19 20 21 22 23 24	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code. (c) To a site having newly discovered free product outside the exclusion zone. (d) To a site having an increase in the concentration of existing petroleum contamination outside the exclusion zone
16 17 18 19 20 21 22 23 24 25	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code. (c) To a site having newly discovered free product outside the exclusion zone. (d) To a site having an increase in the concentration of existing petroleum contamination outside the exclusion zone of 1,000 percent or greater.
16 17 18 19 20 21 22 23 24 25 26	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code. (c) To a site having newly discovered free product outside the exclusion zone. (d) To a site having an increase in the concentration of existing petroleum contamination outside the exclusion zone of 1,000 percent or greater. (e) To a site for which the department has, by a
16 17 18 19 20 21 22 23 24 25 26 27	independent and separate from the discharge that qualifies for state funding. (b) To a site where petroleum storage systems have been upgraded, prior to July 1, 2005, to secondary containment in accordance with rule 62-761, Florida Administrative Code. (c) To a site having newly discovered free product outside the exclusion zone. (d) To a site having an increase in the concentration of existing petroleum contamination outside the exclusion zone of 1,000 percent or greater. (e) To a site for which the department has, by a current valid order, determined that the discharge that is

31 discovered discharge. The department shall not, as part of a

1	closure report or assessment for a site that is eligible for
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2	state funding under s. 376.305, s. 376.3071, or s. 376.3072,
3	require soil or groundwater sampling.
4	(4) Regardless of whether the presumption specified in
5	subsection (2) applies, a facility owner or operator shall:
6	(a) Report all incidents or discharges in accordance
7	with rules of the department.
8	(b) Provide to the department a copy of all test
9	results of storage tank and piping tightness regardless of the
10	results.
11	Section 2. This act shall take effect upon becoming a
12	law.
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15	SENATE SUMMARY
16	Creates a presumption regarding the source of a
17	subsequently discovered discharge at certain petroleum contamination sites. Provides exceptions to application
18	of the presumption. Provides that specified provisions concerning site rehabilitation agreements do not apply to
19	a subsequently discovered discharge. Prohibits the Department of Environmental Protection from requiring
20	soil or groundwater sampling relating to closure assessments at certain petroleum contamination sites.
21	Specifies responsibilities of a facility owner or operator.
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