

HB 1209

2011

1 A bill to be entitled
2 An act relating to taxation; amending s. 206.9925, F.S.;
3 revising the definition of the terms "petroleum product"
4 and "pollutants" to merge them and exclude pesticides,
5 ammonia, chlorine, lead-acid batteries, and specified
6 solvents; deleting the terms "solvents" and "consume";
7 amending s. 206.9935, F.S.; revising provisions for
8 collection and distribution of excise taxes imposed for
9 the privilege of producing in, importing into, or causing
10 to be imported into the state pollutants for sale, use, or
11 otherwise; amending s. 206.9941, F.S.; eliminating a tax
12 exemption for specified solvents; revising provisions
13 exempting petroleum products from certain taxes; amending
14 s. 206.9942, F.S.; revising provisions for refunds and
15 credits for taxes paid for the purchase and exportation of
16 petroleum products, the production, importation, and
17 purchase of solvents, and the production, importation,
18 purchase, and exportation of lead-acid batteries; amending
19 s. 206.9945, F.S.; revising provisions relating to service
20 charges for the collection of fuel taxes and the
21 distribution of funds from the Fuel Tax Collection Trust
22 Fund; terminating the transfer of funds to the Florida
23 Coastal Protection Trust Fund and the Water Quality
24 Assurance Trust Fund and providing for the transfer of
25 such funds to the General Revenue Fund; providing for the
26 transfer of certain funds from the Inland Protection Trust
27 Fund to the General Revenue Fund; repealing s. 376.70,
28 F.S., relating to tax on gross receipts of drycleaning

29 facilities; repealing s. 376.71, F.S., relating to an
 30 exemption from registration fees and gross receipts tax
 31 for uniform rental companies and linen supply companies;
 32 repealing s. 376.75, F.S., relating to tax on production
 33 or importation of perchloroethylene; repealing s. 403.718,
 34 F.S., relating to waste tire fees; repealing s. 403.7185,
 35 F.S., relating to lead-acid battery fees; repealing s.
 36 681.117, F.S., relating to motor vehicle warranty fees;
 37 amending ss. 72.011, 213.05, 213.053, 376.11, 376.301,
 38 376.307, 376.3071, 376.3078, and 403.717, F.S.; conforming
 39 cross-references and provisions to changes made by the
 40 act; providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Section 206.9925, Florida Statutes, is amended
 45 to read:

46 206.9925 Definitions.—As used in this part:

47 (1) "Barrel" means 42 U.S. gallons at 60 °F.

48 (2) "Oil" means crude petroleum oil and other
 49 hydrocarbons, regardless of gravity, which are produced at the
 50 well in liquid form by ordinary production methods and which are
 51 not the result of condensation of gas after it leaves the
 52 reservoir.

53 (3) "Gas" means all natural gas, including casinghead gas,
 54 and all other hydrocarbons not defined as oil in subsection (2).

55 (4) "Pollutant" ~~"Petroleum product"~~ means any refined
 56 liquid commodity made wholly or partially from oil or gas, or

HB 1209

2011

57 blends or mixtures of oil with one or more liquid products or
 58 byproducts derived from oil or gas, or blends or mixtures of two
 59 or more liquid products or byproducts derived from oil or gas,
 60 and includes, but is not limited to, motor gasoline, gasohol,
 61 aviation gasoline, naphtha-type jet fuel, kerosene-type jet
 62 fuel, kerosene, distillate fuel oil, residual fuel oil, motor
 63 oil and other lubricants, naphtha of less than 400 °F for
 64 petroleum feed, special naphthas, road oil, still gas,
 65 unfinished oils, motor gas blending components, including
 66 petroleum-derived ethanol when used for such purpose, and
 67 aviation gas blending components.

68 ~~(5) "Pollutants" includes any petroleum product as defined~~
 69 ~~in subsection (4) as well as pesticides, ammonia, and chlorine;~~
 70 ~~lead-acid batteries, including, but not limited to, batteries~~
 71 ~~that are a component part of other tangible personal property;~~
 72 ~~and solvents as defined in subsection (6), but the term excludes~~
 73 ~~liquefied petroleum gas, medicinal oils, and waxes. Products~~
 74 ~~intended for application to the human body or for use in human~~
 75 ~~personal hygiene or for human ingestion are not pollutants,~~
 76 ~~regardless of their contents. For the purpose of the tax imposed~~
 77 ~~under s. 206.9935(1), "pollutants" also includes crude oil.~~

78 ~~(6) "Solvents" means the following organic compounds, if~~
 79 ~~the listed organic compound is in liquid form: acetamide,~~
 80 ~~acetone, acetonitrile, acetophenone, amyl acetates (all),~~
 81 ~~aniline, benzene, butyl acetates (all), butyl alcohols (all),~~
 82 ~~butyl benzyl phthalate, carbon disulfide, carbon tetrachloride,~~
 83 ~~chlorobenzene, chloroform, cumene, cyclohexane, cyclohexanone,~~
 84 ~~dibutyl phthalate, dichlorobenzenes (all),~~

85 ~~dichlorodifluoromethane, diethyl phthalate, dimethyl phthalate,~~
 86 ~~dioctyl phthalate (di-2-ethyl hexyl phthalate), n-dioctyl~~
 87 ~~phthalate, 1,4-dioxane, petroleum-derived ethanol, ethyl~~
 88 ~~acetate, ethyl benzene, ethylene dichloride, 2-ethoxy ethanol~~
 89 ~~(ethylene glycol ethyl ether), ethylene glycol, furfural,~~
 90 ~~formaldehyde, n-hexane, isophorone, isopropyl alcohol, methanol,~~
 91 ~~2-methoxy ethanol (ethylene glycol methyl ether), methyl tert-~~
 92 ~~butyl ether, methylene chloride (dichloromethane), methyl ethyl~~
 93 ~~ketone, methyl isobutyl ketone, mineral spirits, 140-F naphtha,~~
 94 ~~naphthalene, nitrobenzene, 2-nitropropane, pentachlorobenzene,~~
 95 ~~phenol, perchloroethylene (tetrachloroethylene), stoddard~~
 96 ~~solvent, tetrahydrofuran, toluene, 1,1,1-trichloroethane,~~
 97 ~~trichloroethylene, 1,1,2-trichloro-1,2,2-trifluoroethane, and~~
 98 ~~xylene(s) (all).~~

99 ~~(7) "Consume" means to destroy or to alter the chemical or~~
 100 ~~physical structure of a solvent so that it is no longer~~
 101 ~~identifiable as the solvent it was.~~

102 (5)~~(8)~~ "Storage facility" means a location owned,
 103 operated, or leased by a licensed terminal operator, which
 104 location contains any stationary tank or tanks for holding
 105 pollutants ~~petroleum products.~~

106 Section 2. Section 206.9935, Florida Statutes, is amended
 107 to read:

108 206.9935 Taxes imposed.—

109 (1) TAX FOR COASTAL PROTECTION.—

110 (a)1. There is hereby levied an excise tax for the
 111 privilege of producing in, importing into, or causing to be
 112 imported into this state pollutants for sale, use, or otherwise.

113 ~~2. The tax shall be imposed only once on each barrel of~~
 114 ~~pollutant, other than petroleum products, when first produced in~~
 115 ~~or imported into this state. The tax on pollutants first~~
 116 ~~imported into or produced in this state shall be imposed when~~
 117 ~~the product is first sold or first removed from storage. The tax~~
 118 ~~shall be paid and remitted by any person who is licensed by the~~
 119 ~~department to engage in the production or importation of motor~~
 120 ~~fuel, diesel fuel, aviation fuel, or other pollutants.~~

121 ~~2.3.~~ The tax shall be imposed on pollutants ~~petroleum~~
 122 ~~products~~ and remitted to the department in the same manner as
 123 the motor fuel tax imposed pursuant to s. 206.41.

124 (b) The excise tax shall be 2 cents per barrel of
 125 pollutant, or equivalent measure as established by the
 126 department, produced in or imported into this state ~~until the~~
 127 ~~balance in the Coastal Protection Trust Fund equals or exceeds~~
 128 ~~\$50 million. For the fiscal year immediately following the year~~
 129 ~~in which the balance in the fund equals or exceeds \$50 million,~~
 130 ~~no excise tax shall be levied unless:~~

131 ~~1. The balance in the fund is less than or equal to \$40~~
 132 ~~million. For the fiscal year immediately following the year in~~
 133 ~~which the balance in the fund is less than or equal to \$40~~
 134 ~~million, the excise tax shall be and shall remain 2 cents per~~
 135 ~~barrel or equivalent measure until the fund again equals or~~
 136 ~~exceeds \$50 million. For the fiscal year immediately following~~
 137 ~~the year in which the fund again is equal to or exceeds \$50~~
 138 ~~million, the excise tax and fund shall be controlled as when the~~
 139 ~~fund first was equal to or exceeded \$50 million.~~

140 ~~2. There is a discharge of catastrophic proportions, the~~

HB 1209

2011

141 ~~results of which could significantly reduce the balance in the~~
142 ~~fund. In the event of such a catastrophic occurrence, the~~
143 ~~Secretary of Environmental Protection may, by rule, relevy the~~
144 ~~excise tax in an amount not to exceed 10 cents per barrel for a~~
145 ~~period of time sufficient to maintain the fund at a balance of~~
146 ~~\$50 million, after payment of the costs and damages related to~~
147 ~~the catastrophic discharge.~~

148 ~~3. The fund is unable to pay any proven claims against the~~
149 ~~fund at the end of the fiscal year. Notwithstanding any other~~
150 ~~provision of this subsection, for the fiscal year following the~~
151 ~~year in which the fund is unable to pay any proven claims~~
152 ~~against the fund at the end of the fiscal year, the excise tax~~
153 ~~shall be and shall remain 5 cents per barrel or equivalent~~
154 ~~measure until all outstanding proven claims have been paid and~~
155 ~~the fund again equals or exceeds \$20 million. For the fiscal~~
156 ~~year immediately following the year in which the fund, after~~
157 ~~levy of the 5-cent excise tax, again is equal to or exceeds \$20~~
158 ~~million, the excise tax and fund shall be controlled in~~
159 ~~accordance with subparagraph 1., unless otherwise provided.~~

160 ~~4. The fund has had appropriated to it by the Legislature,~~
161 ~~but has not yet repaid, state funds from the General Revenue~~
162 ~~Fund. In such event, the excise tax shall continue to be in~~
163 ~~effect until all such funds are repaid to the General Revenue~~
164 ~~Fund.~~

165 ~~(c)1. Excluding natural gas drilling activities, if~~
166 ~~offshore oil drilling activity is approved by the United States~~
167 ~~Department of the Interior for the waters off the coast of this~~
168 ~~state in the Atlantic Ocean, Gulf of Mexico, or Straits of~~

HB 1209

2011

169 ~~Florida, paragraph (b) shall not apply. Instead, the excise tax~~
 170 ~~shall be 2 cents per barrel of pollutant, or equivalent measure~~
 171 ~~as established by the department, produced in or imported into~~
 172 ~~this state, and the proceeds shall be deposited into the Coastal~~
 173 ~~Protection Trust Fund with a cap of \$100 million.~~

174 ~~2. If a discharge of catastrophic proportions occurs, the~~
 175 ~~results of which could significantly reduce the balance in the~~
 176 ~~fund, the Secretary of Environmental Protection may, by rule,~~
 177 ~~increase the levy of the excise tax to an amount not to exceed~~
 178 ~~10 cents per barrel for a period of time sufficient to pay any~~
 179 ~~proven claim against the fund and restore the balance in the~~
 180 ~~fund until it again equals or exceeds \$50 million; except that~~
 181 ~~for any fiscal year immediately following the year in which the~~
 182 ~~fund is equal to or exceeds \$50 million, the excise tax and fund~~
 183 ~~shall be governed by the provisions of subparagraph 1.~~

184 (2) TAX FOR WATER QUALITY.-

185 (a)1. There is hereby levied an excise tax for the
 186 privilege of producing in, importing into, or causing to be
 187 imported into this state pollutants for sale, use, or otherwise.

188 ~~2. The tax shall be imposed only once on each barrel or~~
 189 ~~other unit of pollutant, other than petroleum products, when~~
 190 ~~first produced in or imported into this state. The tax on~~
 191 ~~pollutants first imported into or produced in this state shall~~
 192 ~~be imposed when the product is first sold or first removed from~~
 193 ~~storage. The tax shall be paid and remitted by any person who is~~
 194 ~~licensed by the department to engage in the production or~~
 195 ~~importation of motor fuel, diesel fuel, aviation fuel, or other~~
 196 ~~pollutants.~~

197 2.3. The tax shall be imposed on pollutants ~~petroleum~~
 198 ~~products~~ and remitted to the department in the same manner as
 199 the motor fuel tax imposed pursuant to s. 206.41.

200 (b) The excise tax shall be ~~the applicable rate as~~
 201 ~~specified in subparagraph 1. per barrel or per unit of~~
 202 ~~pollutant, or equivalent measure as established by the~~
 203 ~~department, produced in or imported into the state. If the~~
 204 ~~unobligated balance of the Water Quality Assurance Trust Fund is~~
 205 ~~or falls below \$3 million, the tax shall be increased to the~~
 206 ~~applicable rates specified in subparagraph 2. and shall remain~~
 207 ~~at said rates until the unobligated balance in the fund exceeds~~
 208 ~~\$5 million, at which time the tax shall be imposed at the rates~~
 209 ~~specified in subparagraph 1. If the unobligated balance of the~~
 210 ~~fund exceeds \$12 million, the levy of the tax shall be~~
 211 ~~discontinued until the unobligated balance of the fund falls~~
 212 ~~below \$5 million, at which time the tax shall be imposed at the~~
 213 ~~rates specified in subparagraph 1. Changes in the tax rates~~
 214 ~~pursuant to this paragraph shall take effect on the first day of~~
 215 ~~the month after 30 days' notification to the Department of~~
 216 ~~Revenue when the unobligated balance of the fund falls below or~~
 217 ~~exceeds a limit set pursuant to this paragraph. The unobligated~~
 218 ~~balance of the Water Quality Assurance Trust Fund as it relates~~
 219 ~~to determination of the applicable excise tax rate shall exclude~~
 220 ~~the unobligated balances of funds of the Dry Cleaning, Operator~~
 221 ~~Certification, and nonagricultural nonpoint source programs, and~~
 222 ~~other required reservations of fund balance. The unobligated~~
 223 ~~balance in the Water Quality Assurance Trust Fund is based upon~~
 224 ~~the current unreserved fund balance, projected revenues,~~

225 ~~authorized legislative appropriations, and funding for the~~
 226 ~~department's base budget for the subsequent fiscal year.~~
 227 ~~Determination of the unobligated balance of the Water Quality~~
 228 ~~Assurance Trust Fund shall be performed annually subsequent to~~
 229 ~~the annual legislative appropriations becoming law.~~

230 ~~1. As provided in this paragraph, the tax shall be 2.36~~
 231 ~~cents per gallon of solvents, 1 cent per gallon of motor oil or~~
 232 ~~other lubricants, and 2 cents per barrel of pollutant petroleum~~
 233 ~~products, or equivalent measure as established by the~~
 234 ~~department, produced in or imported into this state pesticides,~~
 235 ~~ammonia, and chlorine.~~

236 ~~2. As provided in this paragraph, the tax shall be 5.9~~
 237 ~~cents per gallon of solvents, 2.5 cents per gallon of motor oil~~
 238 ~~or other lubricants, 2 cents per barrel of ammonia, and 5 cents~~
 239 ~~per barrel of petroleum products, pesticides, and chlorine.~~

240 (c) Any person producing in or importing into the state a
 241 liquid mixture and claiming that the mixture is not subject to
 242 taxation as a pollutant shall bear the burden of demonstrating
 243 to the Department of Revenue that the mixture is not a pollutant
 244 or is intended for application to the human body or for use in
 245 human personal hygiene or for human ingestion.

246 (3) TAX FOR INLAND PROTECTION.—

247 (a)1. There is hereby levied an excise tax for the
 248 privilege of producing in, importing into, or causing to be
 249 imported into this state pollutants for sale, use, or otherwise.

250 2. The tax shall be imposed only once on each barrel of
 251 pollutant produced in or imported into this state in the same
 252 manner as the motor fuel tax imposed pursuant to s. 206.41. The

HB 1209

2011

253 tax shall be paid or remitted by any person who is licensed by
 254 the department to engage in the production or importation of
 255 motor fuel, diesel fuel, aviation fuel, or other pollutants.

256 (b)~~1~~. The excise tax per barrel of pollutant, or
 257 equivalent measure as established by the department, produced in
 258 or imported into this state shall be 80 cents.~~+~~

259 a. ~~Thirty cents if the unobligated balance of the fund is~~
 260 ~~between \$100 million and \$150 million.~~

261 b. ~~Sixty cents if the unobligated balance of the fund is~~
 262 ~~above \$50 million, but below \$100 million.~~

263 c. ~~Eighty cents if the unobligated balance of the fund is~~
 264 ~~\$50 million or less.~~

265 2. ~~Any change in the tax rate shall be effective for a~~
 266 ~~minimum of 6 months, unless the unobligated balance of the fund~~
 267 ~~requires that a higher rate be levied.~~

268 3. ~~If the unobligated balance of the fund exceeds \$150~~
 269 ~~million, the tax shall be discontinued until such time as the~~
 270 ~~unobligated balance of the fund reaches \$100 million.~~

271 4. ~~The Secretary of Environmental Protection shall~~
 272 ~~immediately notify the Department of Revenue when the~~
 273 ~~unobligated balance of the fund falls below or exceeds an amount~~
 274 ~~set herein. Changes in the tax rates pursuant to this subsection~~
 275 ~~shall take effect on the first day of the month after 30 days'~~
 276 ~~notification to the Department of Revenue by the Secretary of~~
 277 ~~Environmental Protection when the unobligated balance of the~~
 278 ~~fund falls below or exceeds a limit set pursuant to this~~
 279 ~~subsection. The unobligated balance of the Inland Protection~~
 280 ~~Trust Fund as it relates to determination of the applicable~~

HB 1209

2011

281 ~~excise tax rate shall exclude any required reservations of fund~~
282 ~~balance. The unobligated balance of the Inland Protection Trust~~
283 ~~Fund is based upon the current unreserved fund balance,~~
284 ~~projected revenues, authorized legislative appropriations, and~~
285 ~~funding for the department's base budget for the subsequent~~
286 ~~fiscal year. Determination of the unobligated balance of the~~
287 ~~Inland Protection Trust Fund shall be performed annually~~
288 ~~subsequent to the annual legislative appropriations becoming~~
289 ~~law.~~

290 (4) For purposes of this section, the term "first sale"
291 does not include exchanges or loans, gallon-for-gallon, of
292 pollutants ~~petroleum products~~ between licensed terminal
293 suppliers before the pollutants ~~petroleum products~~ have been
294 sold or removed through the loading rack or transfers between
295 terminal facilities owned by the same taxpayer. The tax on
296 pollutants ~~petroleum products~~ first imported into this state by
297 a licensed terminal supplier storing such pollutants ~~petroleum~~
298 ~~products~~ in a terminal facility shall be imposed when the
299 product is first removed through the loading rack. The tax shall
300 be remitted by the licensed terminal supplier who owned the
301 pollutants ~~petroleum products~~ immediately prior to removal of
302 such pollutants ~~petroleum products~~ from storage.

303 ~~(5) The sum of \$8 million or 2.5 percent, whichever is~~
304 ~~greater, of the amount credited to the Inland Protection Trust~~
305 ~~Fund pursuant to subsection (3) shall be transferred to the~~
306 ~~Florida Coastal Protection Trust Fund and used for the purposes~~
307 ~~authorized in s. 376.11.~~

308 Section 3. Subsections (4) through (7) of section

HB 1209

2011

309 206.9941, Florida Statutes, are amended to read:

310 206.9941 Exemptions.—

311 ~~(4) Solvents consumed in the manufacture or production of~~
 312 ~~a material that is not itself a pollutant, as defined in s.~~
 313 ~~206.9925, are exempt from the tax imposed by s. 206.9935(2).~~

314 (4)~~(5)~~ ~~Solvents~~, Motor oil, and lubricants are exempt from
 315 the taxes imposed by s. 206.9935(1) and (3).

316 (5)~~(6)~~ Crude oil produced at a well site subject to
 317 regulation under s. 377.22 and exported from that site by the
 318 producer exclusively by pipeline, truck, or rail to beyond the
 319 jurisdiction of this state without intermediate storage or
 320 stoppage shall be exempt from the tax imposed under s.
 321 206.9935(1).

322 (6)~~(7)~~ Pollutants ~~Petroleum products~~ bunkered into marine
 323 vessels engaged in interstate or foreign commerce from the first
 324 storage facility at which they are held in this state by a
 325 licensed terminal supplier, importer, exporter, wholesaler, or
 326 producer are exempt from the taxes imposed under s. 206.9935(2)
 327 and (3).

328 Section 4. Section 206.9942, Florida Statutes, is amended
 329 to read:

330 206.9942 Refunds and credits.—

331 (1) Any licensed terminal supplier, importer, exporter,
 332 producer, wholesaler, or dealer who has purchased pollutants
 333 ~~petroleum products~~, who has paid the tax pursuant to s.
 334 206.9935(2) or (3) to his or her supplier, and who subsequently
 335 exports said products from the state or bunkers pollutants
 336 ~~petroleum products~~ into marine vessels engaged in interstate or

337 foreign commerce may deduct the amount of tax paid thereon
 338 pursuant to s. 206.9935(2) or (3) from the amount owed to the
 339 state and remitted pursuant to s. 206.9931(2) or may apply for a
 340 refund of the amount of tax paid thereon pursuant to s.
 341 206.9935(2) or (3).

342 (2) Any person licensed pursuant to this chapter who has
 343 produced, imported, or purchased pollutants on which the tax has
 344 been paid pursuant to s. 206.9935(2) to the state or to his or
 345 her supplier and who subsequently exports from the state said
 346 pollutants or products containing said pollutants may deduct the
 347 amount of tax paid thereon pursuant to s. 206.9935(2) from the
 348 amount owed to the state and remitted pursuant to s. 206.9931(2)
 349 or may apply for a refund of the amount of tax paid thereon
 350 pursuant to s. 206.9935(2).

351 ~~(3) Any person licensed pursuant to this chapter who has~~
 352 ~~produced, imported, or purchased solvents on which the tax has~~
 353 ~~been paid pursuant to s. 206.9935(2) to the state or to his or~~
 354 ~~her supplier and which solvents are subsequently consumed in the~~
 355 ~~manufacture or production of a product which is not itself a~~
 356 ~~pollutant as defined in s. 206.9925(5) may deduct the amount of~~
 357 ~~tax paid thereon pursuant to s. 206.9935(2) from the amount owed~~
 358 ~~to the state and remitted pursuant to s. 206.9931(2) or may~~
 359 ~~apply for a refund of the amount of tax paid thereon pursuant to~~
 360 ~~s. 206.9935(2).~~

361 ~~(4) Any person licensed pursuant to this chapter who has~~
 362 ~~produced, imported, or purchased solvents on which the tax has~~
 363 ~~been paid pursuant to s. 206.9935(2) to the state or to his or~~
 364 ~~her supplier and which solvents were subsequently consumed,~~

365 ~~blended, or mixed to produce a pollutant that is subject to tax~~
 366 ~~pursuant to s. 206.9935(2) may deduct the amount of tax paid on~~
 367 ~~the solvent pursuant to s. 206.9935(2) from the amount owed to~~
 368 ~~the state for the pollutant and remitted pursuant to s.~~
 369 ~~206.9931(2) or may apply for a refund of the amount of tax paid~~
 370 ~~on the solvent pursuant to s. 206.9935(2). In no event shall any~~
 371 ~~deduction or credit under this subsection exceed the tax owed to~~
 372 ~~the state for the pollutant.~~

373 ~~(5) Any person licensed pursuant to this chapter who has~~
 374 ~~produced, imported, or purchased lead-acid batteries on which~~
 375 ~~the tax has been paid pursuant to s. 206.9935(2) to the state or~~
 376 ~~to his or her supplier and who subsequently exports from the~~
 377 ~~state said lead-acid batteries may deduct the amount of tax paid~~
 378 ~~thereon pursuant to s. 206.9935(2) from the amount owed to the~~
 379 ~~state and remitted pursuant to s. 206.9931(2) or may apply for a~~
 380 ~~refund of the amount of tax paid thereon pursuant to s.~~
 381 ~~206.9935(2).~~

382 (3)~~(6)~~ Administrative procedures governing refunds under
 383 this section shall be those specified in s. 206.41, except for
 384 the provisions requiring refund permits.

385 (4)~~(7)~~ It is the responsibility of the applicant to
 386 affirmatively demonstrate to the satisfaction of the department
 387 that he or she is eligible for any deduction or refund claimed
 388 hereunder. Without such demonstration, no refund or deduction
 389 shall be allowed.

390 Section 5. Subsection (1) of section 206.9945, Florida
 391 Statutes, is amended to read:

392 206.9945 Funds collected; disposition; department

393 authority.—

394 (1) The department shall deposit all funds received and
 395 collected by it under this part into the Fuel Tax Collection
 396 Trust Fund to be transferred, less the costs of administration
 397 ~~and less the service charges to be deducted pursuant to s.~~
 398 ~~215.20~~, as follows:

399 (a) Moneys collected pursuant to s. 206.9935(1) and tax
 400 revenues collected pursuant to s. 207.003 at the rates specified
 401 in s. 206.9935(3) shall be transferred to the General Revenue
 402 ~~Florida Coastal Protection Trust Fund~~, as provided in s. ~~376.11~~;

403 (b) Moneys collected pursuant to s. 206.9935(2) shall be
 404 transferred to the General Revenue ~~Water Quality Assurance Trust~~
 405 ~~Fund~~, as provided in s. ~~376.307~~; and

406 (c) Moneys collected pursuant to s. 206.9935(3), less any
 407 refunds granted under s. 206.9942, shall be transferred to the
 408 Inland Protection Trust Fund as provided in s. 376.3071. This
 409 paragraph does not apply to moneys collected pursuant to s.
 410 207.003 and transferred pursuant to paragraph (a). After payment
 411 of amounts necessary to pay debt service on, or to fund debt
 412 service reserve funds, rebate obligations, or other amounts
 413 payable with respect to outstanding Florida Inland Protection
 414 Financing Corporation revenue bonds, all remaining funds shall
 415 be transferred to the General Revenue Fund.

416 Section 6. Sections 376.70, 376.71, 376.75, 403.718,
 417 403.7185, and 681.117, Florida Statutes, are repealed.

418 Section 7. Paragraph (a) of subsection (1) of section
 419 72.011, Florida Statutes, is amended to read:

420 72.011 Jurisdiction of circuit courts in specific tax

421 matters; administrative hearings and appeals; time for
 422 commencing action; parties; deposits.—

423 (1) (a) A taxpayer may contest the legality of any
 424 assessment or denial of refund of tax, fee, surcharge, permit,
 425 interest, or penalty provided for under s. 125.0104, s.
 426 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,
 427 chapter 203, chapter 206, chapter 207, chapter 210, chapter 211,
 428 chapter 212, chapter 213, chapter 220, chapter 221, s.
 429 379.362(3), chapter 376, s. 403.717, ~~s. 403.718, s. 403.7185~~, s.
 430 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,
 431 chapter 563, chapter 564, chapter 565, or chapter 624, ~~or s.~~
 432 ~~681.117~~ by filing an action in circuit court; or, alternatively,
 433 the taxpayer may file a petition under the applicable provisions
 434 of chapter 120. However, once an action has been initiated under
 435 s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s.
 436 120.80(14) (b), no action relating to the same subject matter may
 437 be filed by the taxpayer in circuit court, and judicial review
 438 shall be exclusively limited to appellate review pursuant to s.
 439 120.68; and once an action has been initiated in circuit court,
 440 no action may be brought under chapter 120.

441 Section 8. Section 213.05, Florida Statutes, is amended to
 442 read:

443 213.05 Department of Revenue; control and administration
 444 of revenue laws.—The Department of Revenue shall have only those
 445 responsibilities for ad valorem taxation specified to the
 446 department in chapter 192, taxation, general provisions; chapter
 447 193, assessments; chapter 194, administrative and judicial
 448 review of property taxes; chapter 195, property assessment

HB 1209

2011

449 administration and finance; chapter 196, exemption; chapter 197,
 450 tax collections, sales, and liens; chapter 199, intangible
 451 personal property taxes; and chapter 200, determination of
 452 millage. The Department of Revenue shall have the responsibility
 453 of regulating, controlling, and administering all revenue laws
 454 and performing all duties as provided in s. 125.0104, the Local
 455 Option Tourist Development Act; s. 125.0108, tourist impact tax;
 456 chapter 198, estate taxes; chapter 201, excise tax on documents;
 457 chapter 202, communications services tax; chapter 203, gross
 458 receipts taxes; chapter 206, motor and other fuel taxes; chapter
 459 211, tax on production of oil and gas and severance of solid
 460 minerals; chapter 212, tax on sales, use, and other
 461 transactions; chapter 220, income tax code; chapter 221,
 462 emergency excise tax; ss. 336.021 and 336.025, taxes on motor
 463 fuel and special fuel; s. 376.11, pollutant spill prevention and
 464 control; ~~s. 403.718, waste tire fees; s. 403.7185, lead-acid
 465 battery fees;~~ s. 538.09, registration of secondhand dealers; s.
 466 538.25, registration of secondary metals recyclers; s. 624.4621,
 467 group self-insurer's fund premium tax; s. 624.5091, retaliatory
 468 tax; s. 624.475, commercial self-insurance fund premium tax; ss.
 469 624.509-624.511, insurance code: administration and general
 470 provisions; s. 624.515, State Fire Marshal regulatory
 471 assessment; s. 627.357, medical malpractice self-insurance
 472 premium tax; and s. 629.5011, reciprocal insurers premium tax;
 473 ~~and s. 681.117, motor vehicle warranty enforcement.~~

474 Section 9. Paragraphs (q) through (w) of subsection (1)
 475 and paragraph (o) of subsection (8) of section 213.053, Florida
 476 Statutes, are amended to read:

HB 1209

2011

477 | 213.053 Confidentiality and information sharing.—
 478 | (1) This section applies to:
 479 | ~~(q) Section 403.718, waste tire fees;~~
 480 | ~~(r) Section 403.7185, lead-acid battery fees;~~
 481 | (q)~~(s)~~ Section 538.09, registration of secondhand dealers;
 482 | (r)~~(t)~~ Section 538.25, registration of secondary metals
 483 | recyclers;
 484 | (s)~~(u)~~ Sections 624.501 and 624.509-624.515, insurance
 485 | code;
 486 | ~~(v) Section 681.117, motor vehicle warranty enforcement;~~
 487 | and
 488 | (t)~~(w)~~ Section 896.102, reports of financial transactions
 489 | in trade or business.
 490 | (8) Notwithstanding any other provision of this section,
 491 | the department may provide:
 492 | (o) Information relative to ~~ss. 376.70 and 376.75~~ to the
 493 | Department of Environmental Protection in the conduct of its
 494 | official business and to the facility owner, facility operator,
 495 | and real property owners as defined in s. 376.301.
 496 |
 497 | Disclosure of information under this subsection shall be
 498 | pursuant to a written agreement between the executive director
 499 | and the agency. Such agencies, governmental or nongovernmental,
 500 | shall be bound by the same requirements of confidentiality as
 501 | the Department of Revenue. Breach of confidentiality is a
 502 | misdemeanor of the first degree, punishable as provided by s.
 503 | 775.082 or s. 775.083.
 504 | Section 10. Subsection (2) of section 376.11, Florida

505 Statutes, is amended to read:

506 376.11 Florida Coastal Protection Trust Fund.—

507 (2) The Florida Coastal Protection Trust Fund is
 508 established, to be used by the department and the Fish and
 509 Wildlife Conservation Commission as a nonlapsing revolving fund
 510 for carrying out the purposes of ss. 376.011-376.21. To this
 511 fund shall be credited all registration fees, penalties,
 512 judgments, damages recovered pursuant to s. 376.121, and other
 513 fees and charges related to ss. 376.011-376.21, ~~and the excise~~
 514 ~~tax revenues levied, collected, and credited pursuant to ss.~~
 515 ~~206.9935(1) and 206.9945(1)(a).~~ Charges against the fund shall
 516 be in accordance with this section.

517 Section 11. Section 376.301, Florida Statutes, is amended
 518 to read:

519 376.301 Definitions of terms used in ss. 376.30-376.317,
 520 ~~376.70, and 376.75.~~—When used in ss. 376.30-376.317, ~~376.70, and~~
 521 ~~376.75,~~ unless the context clearly requires otherwise, the term:

522 (1) "Aboveground hazardous substance tank" means any
 523 stationary aboveground storage tank and onsite integral piping
 524 that contains hazardous substances which are liquid at standard
 525 temperature and pressure and has an individual storage capacity
 526 greater than 110 gallons.

527 (2) "Additive effects" means a scientific principle that
 528 the toxicity that occurs as a result of exposure is the sum of
 529 the toxicities of the individual chemicals to which the
 530 individual is exposed.

531 (3) "Antagonistic effects" means a scientific principle
 532 that the toxicity that occurs as a result of exposure is less

533 | than the sum of the toxicities of the individual chemicals to
 534 | which the individual is exposed.

535 | (4) "Backlog" means reimbursement obligations incurred
 536 | pursuant to s. 376.3071(12), prior to March 29, 1995, or
 537 | authorized for reimbursement under the provisions of s.
 538 | 376.3071(12), pursuant to chapter 95-2, Laws of Florida. Claims
 539 | within the backlog are subject to adjustment, where appropriate.

540 | (5) "Barrel" means 42 U.S. gallons at 60 degrees
 541 | Fahrenheit.

542 | (6) "Bulk product facility" means a waterfront location
 543 | with at least one aboveground tank with a capacity greater than
 544 | 30,000 gallons which is used for the storage of pollutants.

545 | (7) "Cattle-dipping vat" means any structure, excavation,
 546 | or other facility constructed by any person, or the site where
 547 | such structure, excavation, or other facility once existed, for
 548 | the purpose of treating cattle or other livestock with a
 549 | chemical solution pursuant to or in compliance with any local,
 550 | state, or federal governmental program for the prevention,
 551 | suppression, control, or eradication of any dangerous,
 552 | contagious, or infectious diseases.

553 | (8) "Cleanup target level" means the concentration for
 554 | each contaminant identified by an applicable analytical test
 555 | method, in the medium of concern, at which a site rehabilitation
 556 | program is deemed complete.

557 | (9) "Compression vessel" means any stationary container,
 558 | tank, or onsite integral piping system, or combination thereof,
 559 | which has a capacity of greater than 110 gallons, that is
 560 | primarily used to store pollutants or hazardous substances above

HB 1209

2011

561 atmospheric pressure or at a reduced temperature in order to
562 lower the vapor pressure of the contents. Manifold compression
563 vessels that function as a single vessel shall be considered as
564 one vessel.

565 (10) "Contaminant" means any physical, chemical,
566 biological, or radiological substance present in any medium
567 which may result in adverse effects to human health or the
568 environment or which creates an adverse nuisance, organoleptic,
569 or aesthetic condition in groundwater.

570 (11) "Contaminated site" means any contiguous land,
571 sediment, surface water, or groundwater areas that contain
572 contaminants that may be harmful to human health or the
573 environment.

574 (12) "Department" means the Department of Environmental
575 Protection.

576 (13) "Discharge" includes, but is not limited to, any
577 spilling, leaking, seeping, pouring, misapplying, emitting,
578 emptying, releasing, or dumping of any pollutant or hazardous
579 substance which occurs and which affects lands and the surface
580 and ground waters of the state not regulated by ss. 376.011-
581 376.21.

582 (14) "Drycleaning facility" means a commercial
583 establishment that operates or has at some time in the past
584 operated for the primary purpose of drycleaning clothing and
585 other fabrics utilizing a process that involves any use of
586 drycleaning solvents. The term "drycleaning facility" includes
587 laundry facilities that use drycleaning solvents as part of
588 their cleaning process. The term does not include a facility

HB 1209

2011

589 that operates or has at some time in the past operated as a
590 uniform rental company or a linen supply company regardless of
591 whether the facility operates as or was previously operated as a
592 drycleaning facility.

593 (15) "Drycleaning solvents" means any and all nonaqueous
594 solvents used in the cleaning of clothing and other fabrics and
595 includes perchloroethylene (also known as tetrachloroethylene)
596 and petroleum-based solvents, and their breakdown products. For
597 purposes of this definition, "drycleaning solvents" only
598 includes those drycleaning solvents originating from use at a
599 drycleaning facility or by a wholesale supply facility.

600 (16) "Dry drop-off facility" means any commercial retail
601 store that receives from customers clothing and other fabrics
602 for drycleaning or laundering at an offsite drycleaning facility
603 and that does not clean the clothing or fabrics at the store
604 utilizing drycleaning solvents.

605 (17) "Engineering controls" means modifications to a site
606 to reduce or eliminate the potential for exposure to petroleum
607 products' chemicals of concern, drycleaning solvents, or other
608 contaminants. Such modifications may include, but are not
609 limited to, physical or hydraulic control measures, capping,
610 point of use treatments, or slurry walls.

611 (18) "Wholesale supply facility" means a commercial
612 establishment that supplies drycleaning solvents to drycleaning
613 facilities.

614 (19) "Facility" means a nonresidential location
615 containing, or which contained, any underground stationary tank
616 or tanks which contain hazardous substances or pollutants and

HB 1209

2011

617 have individual storage capacities greater than 110 gallons, or
618 any aboveground stationary tank or tanks which contain
619 pollutants which are liquids at standard ambient temperature and
620 pressure and have individual storage capacities greater than 550
621 gallons. This subsection shall not apply to facilities covered
622 by chapter 377, or containers storing solid or gaseous
623 pollutants, and agricultural tanks having storage capacities of
624 less than 550 gallons.

625 (20) "Flow-through process tank" means an aboveground tank
626 that contains hazardous substances or specified mineral acids as
627 defined in s. 376.321 and that forms an integral part of a
628 production process through which there is a steady, variable,
629 recurring, or intermittent flow of materials during the
630 operation of the process. Flow-through process tanks include,
631 but are not limited to, seal tanks, vapor recovery units, surge
632 tanks, blend tanks, feed tanks, check and delay tanks, batch
633 tanks, oil-water separators, or tanks in which mechanical,
634 physical, or chemical change of a material is accomplished.

635 (21) "Hazardous substances" means those substances defined
636 as hazardous substances in the Comprehensive Environmental
637 Response, Compensation and Liability Act of 1980, Pub. L. No.
638 96-510, 94 Stat. 2767, as amended by the Superfund Amendments
639 and Reauthorization Act of 1986.

640 (22) "Institutional controls" means the restriction on use
641 or access to a site to eliminate or minimize exposure to
642 petroleum products' chemicals of concern, drycleaning solvents,
643 or other contaminants. Such restrictions may include, but are
644 not limited to, deed restrictions, restrictive covenants, or

645 conservation easements.

646 (23) "Laundering on a wash, dry, and fold basis" means the
 647 service provided by the owner or operator of a coin-operated
 648 laundry to its customers whereby an employee of the laundry
 649 washes, dries, and folds laundry for its customers.

650 (24) "Marine fueling facility" means a commercial or
 651 recreational coastal facility, excluding a bulk product
 652 facility, providing fuel to vessels.

653 (25) "Natural attenuation" means a verifiable approach to
 654 site rehabilitation that allows natural processes to contain the
 655 spread of contamination and reduce the concentrations of
 656 contaminants in contaminated groundwater and soil. Natural
 657 attenuation processes may include the following: sorption,
 658 biodegradation, chemical reactions with subsurface materials,
 659 diffusion, dispersion, and volatilization.

660 (26) "Operator" means any person operating a facility,
 661 whether by lease, contract, or other form of agreement.

662 (27) "Owner" means any person owning a facility.

663 (28) "Person" means any individual, partner, joint
 664 venture, or corporation; any group of the foregoing, organized
 665 or united for a business purpose; or any governmental entity.

666 (29) "Person in charge" means the person on the scene who
 667 is in direct, responsible charge of a facility from which
 668 pollutants are discharged, when the discharge occurs.

669 (30) "Person responsible for conducting site
 670 rehabilitation" means the site owner, operator, or the person
 671 designated by the site owner or operator on the reimbursement
 672 application. Mortgage holders and trust holders may be eligible

673 to participate in the reimbursement program pursuant to s.
 674 376.3071(12).

675 (31) "Person responsible for site rehabilitation" means
 676 the person performing site rehabilitation pursuant to s.
 677 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701. Such
 678 person may include, but is not limited to, any person who has
 679 legal responsibility for site rehabilitation pursuant to this
 680 chapter or chapter 403, the department when it conducts site
 681 rehabilitation, a real property owner, a facility owner or
 682 operator, any person responsible for brownfield site
 683 rehabilitation, or any person who voluntarily rehabilitates a
 684 site and seeks acknowledgment from the department for approval
 685 of site rehabilitation program tasks.

686 (32) "Petroleum" includes:

687 (a) Oil, including crude petroleum oil and other
 688 hydrocarbons, regardless of gravity, which are produced at the
 689 well in liquid form by ordinary methods and which are not the
 690 result of condensation of gas after it leaves the reservoir; and

691 (b) All natural gas, including casinghead gas, and all
 692 other hydrocarbons not defined as oil in paragraph (a).

693 (33) "Petroleum product" means any liquid fuel commodity
 694 made from petroleum, including, but not limited to, all forms of
 695 fuel known or sold as diesel fuel, kerosene, all forms of fuel
 696 known or sold as gasoline, and fuels containing a mixture of
 697 gasoline and other products, excluding liquefied petroleum gas
 698 and American Society for Testing and Materials (ASTM) grades no.
 699 5 and no. 6 residual oils, bunker C residual oils, intermediate
 700 fuel oils (IFO) used for marine bunkering with a viscosity of 30

HB 1209

2011

701 and higher, asphalt oils, and petrochemical feedstocks.

702 (34) "Petroleum products' chemicals of concern" means the
703 constituents of petroleum products, including, but not limited
704 to, xylene, benzene, toluene, ethylbenzene, naphthalene, and
705 similar chemicals, and constituents in petroleum products,
706 including, but not limited to, methyl tert-butyl ether (MTBE),
707 lead, and similar chemicals found in additives, provided the
708 chemicals of concern are present as a result of a discharge of
709 petroleum products.

710 (35) "Petroleum storage system" means a stationary tank
711 not covered under the provisions of chapter 377, together with
712 any onsite integral piping or dispensing system associated
713 therewith, which is used, or intended to be used, for the
714 storage or supply of any petroleum product. Petroleum storage
715 systems may also include oil/water separators, and other
716 pollution control devices installed at petroleum product
717 terminals as defined in this chapter and bulk product facilities
718 pursuant to, or required by, permits or best management
719 practices in an effort to control surface discharge of
720 pollutants. Nothing herein shall be construed to allow a
721 continuing discharge in violation of department rules.

722 (36) "Pollutants" includes any "product" as defined in s.
723 377.19(11), pesticides, ammonia, chlorine, and derivatives
724 thereof, excluding liquefied petroleum gas.

725 (37) "Pollution" means the presence on the land or in the
726 waters of the state of pollutants in quantities which are or may
727 be potentially harmful or injurious to human health or welfare,
728 animal or plant life, or property or which may unreasonably

HB 1209

2011

729 interfere with the enjoyment of life or property, including
730 outdoor recreation.

731 (38) "Real property owner" means the individual or entity
732 that is vested with ownership, dominion, or legal or rightful
733 title to the real property, or which has a ground lease interest
734 in the real property, on which a drycleaning facility or
735 wholesale supply facility is or has ever been located.

736 (39) "Response action" means any activity, including
737 evaluation, planning, design, engineering, construction, and
738 ancillary services, which is carried out in response to any
739 discharge, release, or threatened release of a hazardous
740 substance, pollutant, or other contaminant from a facility or
741 site identified by the department under the provisions of ss.
742 376.30-376.317.

743 (40) "Response action contractor" means a person who is
744 carrying out any response action, including a person retained or
745 hired by such person to provide services relating to a response
746 action.

747 (41) "Risk reduction" means the lowering or elimination of
748 the level of risk posed to human health or the environment
749 through interim remedial actions, remedial action, or
750 institutional and, if appropriate, engineering controls.

751 (42) "Secretary" means the Secretary of Environmental
752 Protection.

753 (43) "Site rehabilitation" means the assessment of site
754 contamination and the remediation activities that reduce the
755 levels of contaminants at a site through accepted treatment
756 methods to meet the cleanup target levels established for that

HB 1209

2011

757 site. For purposes of sites subject to the Resource Conservation
758 and Recovery Act, as amended, the term includes removal,
759 decontamination, and corrective action of releases of hazardous
760 substances.

761 (44) "Source removal" means the removal of free product,
762 or the removal of contaminants from soil or sediment that has
763 been contaminated to the extent that leaching to groundwater or
764 surface water has occurred or is occurring.

765 (45) "Storage system" means a stationary tank not covered
766 under the provisions of chapter 377, together with any onsite
767 integral piping or dispensing system associated therewith, which
768 is or has been used for the storage or supply of any petroleum
769 product, pollutant, or hazardous substance as defined herein,
770 and which is registered with the Department of Environmental
771 Protection under this chapter or any rule adopted pursuant
772 hereto.

773 (46) "Synergistic effects" means a scientific principle
774 that the toxicity that occurs as a result of exposure is more
775 than the sum of the toxicities of the individual chemicals to
776 which the individual is exposed.

777 (47) "Temporary point of compliance" means the boundary
778 represented by one or more designated monitoring wells at which
779 groundwater cleanup target levels may not be exceeded while site
780 rehabilitation is proceeding.

781 (48) "Terminal facility" means any structure, group of
782 structures, motor vehicle, rolling stock, pipeline, equipment,
783 or related appurtenances which are used or capable of being used
784 for one or more of the following purposes: pumping, refining,

HB 1209

2011

785 drilling for, producing, storing, handling, transferring, or
786 processing pollutants, provided such pollutants are transferred
787 over, under, or across any water, estuaries, tidal flats,
788 beaches, or waterfront lands, including, but not limited to, any
789 such facility and related appurtenances owned or operated by a
790 public utility or a governmental or quasi-governmental body. In
791 the event of a ship-to-ship transfer of pollutants, the vessel
792 going to or coming from the place of transfer and a terminal
793 facility shall also be considered a terminal facility. For the
794 purposes of ss. 376.30-376.317, the term "terminal facility"
795 shall not be construed to include spill response vessels engaged
796 in response activities related to removal of pollutants, or
797 temporary storage facilities created to temporarily store
798 recovered pollutants and matter, or waterfront facilities owned
799 and operated by governmental entities acting as agents of public
800 convenience for persons engaged in the drilling for or pumping,
801 storing, handling, transferring, processing, or refining of
802 pollutants. However, each person engaged in the drilling for or
803 pumping, storing, handling, transferring, processing, or
804 refining of pollutants through a waterfront facility owned and
805 operated by such a governmental entity shall be construed as a
806 terminal facility.

807 (49) "Transfer" or "transferred" includes unloading,
808 offloading, fueling, bunkering, lightering, removal of waste
809 pollutants, or other similar transfers, between terminal
810 facility and vessel or vessel and vessel.

811 (50) "Nearby real property owner" means the individual or
812 entity that is vested with ownership, dominion, or legal or

813 | rightful title to real property, or that has a ground lease in
 814 | real property, onto which drycleaning solvent has migrated
 815 | through soil or groundwater from a drycleaning facility or
 816 | wholesale supply facility eligible for site rehabilitation under
 817 | s. 376.3078(3) or from a drycleaning facility or wholesale
 818 | supply facility that is approved by the department for voluntary
 819 | cleanup under s. 376.3078(11).

820 | Section 12. Subsection (4) of section 376.307, Florida
 821 | Statutes, is amended to read:

822 | 376.307 Water Quality Assurance Trust Fund.—

823 | (4) The trust fund shall be funded as follows:

824 | (a) An annual transfer of interest funds from the Florida
 825 | Coastal Protection Trust Fund pursuant to s. 376.11(4)(f).

826 | ~~(b) All excise taxes levied, collected, and credited to~~
 827 | ~~the Water Quality Assurance Trust Fund in accordance with the~~
 828 | ~~provisions of ss. 206.9935(2) and 206.9945(1)(b).~~

829 | (b)(e) All penalties, judgments, recoveries,
 830 | reimbursements, and other fees and charges related to the
 831 | enforcement of ss. 376.30-376.317, other than penalties,
 832 | judgments, and other fees and charges related to the enforcement
 833 | of ss. 376.3071 and 376.3073.

834 | ~~(d) The fee on the retail sale of lead-acid batteries~~
 835 | ~~credited to the Water Quality Assurance Trust Fund under s.~~
 836 | ~~403.7185.~~

837 | (c)(e) All penalties, judgments, recoveries,
 838 | reimbursements, loans, and other fees and charges collected
 839 | under s. 376.3078; ~~tax revenues levied, collected, and credited~~
 840 | ~~under ss. 376.70 and 376.75;~~ and registration fees collected

841 | under s. 376.303(1)(d).

842 | Section 13. Subsection (4) of section 376.3071, Florida
843 | Statutes, is amended to read:

844 | 376.3071 Inland Protection Trust Fund; creation; purposes;
845 | funding.—

846 | (4) USES.—Whenever, in its determination, incidents of
847 | inland contamination related to the storage of petroleum or
848 | petroleum products may pose a threat to the environment or the
849 | public health, safety, or welfare, the department shall obligate
850 | moneys available in the fund to provide for:

851 | (a) Prompt investigation and assessment of contamination
852 | sites.

853 | (b) Expeditious restoration or replacement of potable
854 | water supplies as provided in s. 376.30(3)(c)1.

855 | (c) Rehabilitation of contamination sites, which shall
856 | consist of cleanup of affected soil, groundwater, and inland
857 | surface waters, using the most cost-effective alternative that
858 | is technologically feasible and reliable and that provides
859 | adequate protection of the public health, safety, and welfare
860 | and minimizes environmental damage, in accordance with the site
861 | selection and cleanup criteria established by the department
862 | under subsection (5), except that nothing herein shall be
863 | construed to authorize the department to obligate funds for
864 | payment of costs which may be associated with, but are not
865 | integral to, site rehabilitation, such as the cost for
866 | retrofitting or replacing petroleum storage systems.

867 | (d) Maintenance and monitoring of contamination sites.

868 | (e) Inspection and supervision of activities described in

869 | this subsection.

870 | (f) Payment of expenses incurred by the department in its
871 | efforts to obtain from responsible parties the payment or
872 | recovery of reasonable costs resulting from the activities
873 | described in this subsection.

874 | (g) Payment of any other reasonable costs of
875 | administration, including those administrative costs incurred by
876 | the Department of Health in providing field and laboratory
877 | services, toxicological risk assessment, and other assistance to
878 | the department in the investigation of drinking water
879 | contamination complaints and costs associated with public
880 | information and education activities.

881 | (h) Establishment and implementation of the compliance
882 | verification program as authorized in s. 376.303(1)(a),
883 | including contracting with local governments or state agencies
884 | to provide for the administration of such program through
885 | locally administered programs, to minimize the potential for
886 | further contamination sites.

887 | (i) Funding of the provisions of ss. 376.305(6) and
888 | 376.3072.

889 | (j) Activities related to removal and replacement of
890 | petroleum storage systems, exclusive of costs of any tank,
891 | piping, dispensing unit, or related hardware, if soil removal is
892 | preapproved as a component of site rehabilitation and requires
893 | removal of the tank where remediation is conducted under s.
894 | 376.30711 or if such activities were justified in an approved
895 | remedial action plan performed pursuant to subsection (12).

896 | (k) Activities related to reimbursement application

HB 1209

2011

897 preparation and activities related to reimbursement application
898 examination by a certified public accountant pursuant to
899 subsection (12).

900 (l) Reasonable costs of restoring property as nearly as
901 practicable to the conditions which existed prior to activities
902 associated with contamination assessment or remedial action
903 taken under s. 376.303(4).

904 (m) Repayment of loans to the fund.

905 (n) Expenditure of sums from the fund to cover ineligible
906 sites or costs as set forth in subsection (13), if the
907 department in its discretion deems it necessary to do so. In
908 such cases, the department may seek recovery and reimbursement
909 of costs in the same manner and in accordance with the same
910 procedures as are established for recovery and reimbursement of
911 sums otherwise owed to or expended from the fund.

912 (o) Payment of amounts payable under any service contract
913 entered into by the department pursuant to s. 376.3075, subject
914 to annual appropriation by the Legislature.

915 (p) Petroleum remediation pursuant to s. 376.30711
916 throughout a state fiscal year. The department shall establish a
917 process to uniformly encumber appropriated funds throughout a
918 state fiscal year and shall allow for emergencies and imminent
919 threats to human health and the environment as provided in
920 paragraph (5)(a). This paragraph does not apply to
921 appropriations associated with the free product recovery
922 initiative of paragraph (5)(c) or the preapproved advanced
923 cleanup program of s. 376.30713.

924

HB 1209

2011

925 The Inland Protection Trust Fund may only be used to fund the
 926 activities in ss. 376.30-376.317 except ss. 376.3078 and
 927 376.3079. Amounts on deposit in the Inland Protection Trust Fund
 928 in each fiscal year shall first be applied or allocated for the
 929 payment of amounts payable by the department pursuant to
 930 paragraph (o) under a service contract entered into by the
 931 department pursuant to s. 376.3075 and appropriated in each year
 932 by the Legislature prior to making or providing for other
 933 disbursements from the fund. Nothing in this subsection shall
 934 authorize the use of the Inland Protection Trust Fund for
 935 cleanup of contamination caused primarily by a discharge of
 936 solvents ~~as defined in s. 206.9925(6),~~ or polychlorinated
 937 biphenyls when their presence causes them to be hazardous
 938 wastes, except solvent contamination which is the result of
 939 chemical or physical breakdown of petroleum products and is
 940 otherwise eligible. Facilities used primarily for the storage of
 941 motor or diesel fuels as defined in ss. 206.01 and 206.86 shall
 942 be presumed not to be excluded from eligibility pursuant to this
 943 section.

944 Section 14. Paragraph (a) of subsection (2) and paragraph
 945 (b) of subsection (3) of section 376.3078, Florida Statutes, are
 946 amended to read:

947 376.3078 Drycleaning facility restoration; funds; uses;
 948 liability; recovery of expenditures.—

949 (2) FUNDS; USES.—

950 (a) All penalties, judgments, recoveries, reimbursements,
 951 loans, and other fees and charges related to the implementation
 952 of this section and ~~the tax revenues levied, collected, and~~

953 ~~credited pursuant to ss. 376.70 and 376.75,~~ and fees collected
 954 pursuant to s. 376.303(1)(d), and deductibles collected pursuant
 955 to paragraph (3)(d), shall be deposited into the Water Quality
 956 Assurance Trust Fund, to be used upon appropriation as provided
 957 in this section. Charges against the funds for drycleaning
 958 facility or wholesale supply site rehabilitation shall be made
 959 in accordance with the provisions of this section.

960 (3) REHABILITATION LIABILITY.—

961 (b) With regard to drycleaning facilities or wholesale
 962 supply facilities that have operated as drycleaning facilities
 963 or wholesale supply facilities on or after October 1, 1994, any
 964 such drycleaning facility or wholesale supply facility at which
 965 there exists contamination by drycleaning solvents shall be
 966 eligible under this subsection regardless of when the
 967 drycleaning contamination was discovered, provided that the
 968 drycleaning facility or the wholesale supply facility:

969 1. Has been registered with the department;

970 2. Is determined by the department to be in compliance
 971 with the department's rules regulating drycleaning solvents,
 972 drycleaning facilities, or wholesale supply facilities on or
 973 after November 19, 1980;

974 3. Has not been operated in a grossly negligent manner at
 975 any time on or after November 19, 1980;

976 4. Has not been identified to qualify for listing, nor is
 977 listed, on the National Priority List pursuant to the
 978 Comprehensive Environmental Response, Compensation, and
 979 Liability Act of 1980 as amended by the Superfund Amendments and
 980 Reauthorization Act of 1986, and as subsequently amended;

HB 1209

2011

981 5. Is not under an order from the United States
 982 Environmental Protection Agency pursuant to s. 3008(h) of the
 983 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
 984 s. 6928(h)), or has not obtained and is not required to obtain a
 985 permit for the operation of a hazardous waste treatment,
 986 storage, or disposal facility, a postclosure permit, or a permit
 987 pursuant to the federal Hazardous and Solid Waste Amendments of
 988 1984;

989
 990 and provided that the real property owner or the owner or
 991 operator of the drycleaning facility or the wholesale supply
 992 facility has not willfully concealed the discharge of
 993 drycleaning solvents ~~and has remitted all taxes due pursuant to~~
 994 ~~ss. 376.70 and 376.75~~, has provided documented evidence of
 995 contamination by drycleaning solvents as required by the rules
 996 developed pursuant to this section, has reported the
 997 contamination prior to December 31, 1998, and has not denied the
 998 department access to the site.

999 Section 15. Subsections (1) and (4) of section 403.717,
 1000 Florida Statutes, are amended to read:

1001 403.717 Waste tire and lead-acid battery requirements.—

1002 (1) For purposes of this section ~~and ss. 403.718 and~~
 1003 ~~403.7185~~:

1004 (a) "Department" means the Department of Environmental
 1005 Protection.

1006 (b) "Motor vehicle" means an automobile, motorcycle,
 1007 truck, trailer, semitrailer, truck tractor and semitrailer
 1008 combination, or any other vehicle operated in this state, used

1009 to transport persons or property and propelled by power other
 1010 than muscular power. The term does not include traction engines,
 1011 road rollers, vehicles that run only upon a track, bicycles,
 1012 mopeds, or farm tractors and trailers.

1013 (c) "Tire" means a continuous solid or pneumatic rubber
 1014 covering encircling the wheel of a motor vehicle.

1015 (d) "Waste tire" means a tire that has been removed from a
 1016 motor vehicle and has not been retreaded or regrooved. The term
 1017 includes, but is not limited to, used tires and processed tires.
 1018 The term does not include solid rubber tires and tires that are
 1019 inseparable from the rim.

1020 (e) "Waste tire collection center" means a site where
 1021 waste tires are collected from the public prior to being offered
 1022 for recycling and where fewer than 1,500 tires are kept on the
 1023 site on any given day.

1024 (f) "Waste tire processing facility" means a site where
 1025 equipment is used to treat waste tires mechanically, chemically,
 1026 or thermally so that the resulting material is a marketable
 1027 product or is suitable for proper disposal. The term includes
 1028 mobile waste tire processing equipment.

1029 (g) "Waste tire site" means a site at which 1,500 or more
 1030 waste tires are accumulated.

1031 (h) "Lead-acid battery" means a lead-acid battery designed
 1032 for use in motor vehicles, vessels, and aircraft, and includes
 1033 such batteries when sold new as a component part of a motor
 1034 vehicle, vessel, or aircraft, but not when sold to recycle
 1035 components.

1036 (i) "Indoor" means within a structure that excludes rain

HB 1209

2011

1037 and public access and would control air flows in the event of a
 1038 fire.

1039 (j) "Processed tire" means a tire that has been treated
 1040 mechanically, chemically, or thermally so that the resulting
 1041 material is a marketable product or is suitable for proper
 1042 disposal.

1043 (k) "Used tire" means a waste tire which has a minimum
 1044 tread depth of 3/32 inch or greater and is suitable for use on
 1045 a motor vehicle.

1046 (4) The department shall adopt rules to administer this
 1047 section ~~and s. 403.718~~. Such rules:

1048 (a) Must provide for the administration or revocation of
 1049 waste tire processing facility permits, including mobile
 1050 processor permits;

1051 (b) Must provide for the administration or revocation of
 1052 waste tire collector registrations, the fee for which may not
 1053 exceed \$50 per vehicle registered annually;

1054 (c) Must provide for the administration or revocation of
 1055 waste tire collection center permits, the fee for which may not
 1056 exceed \$250 annually;

1057 (d) Must set standards, including financial assurance
 1058 standards, for waste tire processing facilities and associated
 1059 waste tire sites, waste tire collection centers, waste tire
 1060 collectors, and for the storage of waste tires and processed
 1061 tires, including storage indoors;

1062 (e) May exempt not-for-hire waste tire collectors and
 1063 processing facilities from financial assurance requirements;

1064 (f) Must authorize the final disposal of waste tires at a

HB 1209

2011

1065 permitted solid waste disposal facility provided the tires have
1066 been cut into sufficiently small parts to assure their proper
1067 disposal; and

1068 (g) Must allow waste tire material that has been cut into
1069 sufficiently small parts to be used as daily cover material for
1070 a landfill.

1071 Section 16. This act shall take effect July 1, 2011.