



Bill Number: H.B. 2310

Smith Floor Amendment

Reference to: COMMERCE AND PUBLIC SAFETY

Committee amendment

Amendment drafted by: Jessica Newland

FLOOR AMENDMENT EXPLANATION

1. Prohibits reimbursement amounts for corrective action taken for the release of an Underground Storage Tank (UST) from being reduced based on payments made pursuant to the preapproval program.
2. Allows an owner or operator of a UST that satisfied the financial responsibility requirement through insurance at the time of a release to receive reimbursement of up to \$500,000 for additional corrective action without filing a claim against the insurance carrier.
3. Makes technical changes.

Amendment explanation prepared by Jessica Newland

04/02/2018

SMITH FLOOR AMENDMENT

SENATE AMENDMENTS TO H.B. 2310

(Reference to COMMERCE AND PUBLIC SAFETY Committee amendment)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 49-1006.02, Arizona Revised Statutes, is amended
3 to read:

4 **49-1006.02. Insurance primacy; requirements; fund access**

5 A. For owners or operators that satisfy financial responsibility
6 requirements through insurance, the following apply:

7 1. The policy that covers the underground storage tank system at the
8 time the release is discovered shall be primary to eligibility under
9 sections 49-1017 and 49-1054.

10 2. The owner or operator is not required to exhaust insurance
11 coverage in order to be eligible under sections 49-1017 and 49-1054.

12 3. **EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION,** Eligibility
13 under sections 49-1017 and 49-1054 is contingent on filing a timely
14 insurance claim under the policy and pursuing that claim until a denial is
15 received or, after assistance from the department as prescribed in section
16 49-1006.01, subsection D, until the department determines that the claim
17 has been constructively denied.

18 4. An owner or operator that fails to pursue an insurance claim is
19 no longer eligible under sections 49-1017 and 49-1054.

20 B. An owner or operator that satisfies financial responsibility
21 requirements through insurance and that will not receive payment from its
22 insurance provider until after the expenditure of at least fifty thousand
23 dollars per facility as provided in an insurance policy that is in effect
24 on April 1, 2015 or that satisfies financial responsibility requirements
25 through an alternative financial responsibility mechanism is eligible under
26 sections 49-1017 and 49-1054 after meeting a cost sharing obligation by

1 payment of the first fifty thousand dollars per facility for work that is
2 conducted on or after January 1, 2016. This eligibility is subject to the
3 limits prescribed in section 49-1054, subsection A and is subject to the
4 preapproval process prescribed in section 49-1051. EXCEPT AS PROVIDED IN
5 SUBSECTION C OF THIS SECTION, Eligibility pursuant to this subsection for
6 owners or operators that meet financial responsibility requirements through
7 insurance is contingent on providing timely notice of the release to the
8 insurance carrier under the policy and that eligibility ends on the date
9 that the insurer is obligated to provide payment under the policy.

10 C. AN OWNER OR OPERATOR THAT SATISFIES FINANCIAL RESPONSIBILITY
11 REQUIREMENTS THROUGH INSURANCE AND THAT HAD A RELEASE REPORTED BETWEEN JULY
12 1, 2006 AND DECEMBER 31, 2015, THAT REQUIRES ADDITIONAL CORRECTIVE ACTION
13 IS ELIGIBLE UNDER SECTIONS 49-1017 AND 49-1054 SUBJECT TO THE PREAPPROVAL
14 PROCESS PRESCRIBED IN SECTION 49-1051 WITHOUT FILING A TIMELY CLAIM AGAINST
15 ITS INSURANCE CARRIER IF THE OWNER OR OPERATOR WAS IN COMPLIANCE WITH
16 FINANCIAL RESPONSIBILITY REQUIREMENTS AT THE TIME OF THE RELEASE. THE
17 MAXIMUM AMOUNT ELIGIBLE FOR REIMBURSEMENT UNDER THIS SUBSECTION IS FIVE
18 HUNDRED THOUSAND DOLLARS PER FACILITY AFTER MEETING A COST SHARING
19 OBLIGATION BY PAYMENT OF THE FIRST FIFTY THOUSAND DOLLARS PER FACILITY FOR
20 WORK CONDUCTED ON OR AFTER JANUARY 1, 2016 AND WITHOUT ANY REDUCTIONS FOR
21 PAYMENTS MADE PURSUANT TO LAWS 2015, CHAPTER 247, SECTION 25, AS AMENDED BY
22 SECTION 2 OF THIS ACT."

23 Rerumber to conform

24 Page 1, line 15, after "facility" insert "AND WITHOUT ANY REDUCTIONS FOR PAYMENTS
25 MADE PURSUANT TO THE PREAPPROVAL PROGRAM PRESCRIBED BY SECTIONS 49-1051 AND
26 49-1053, ARIZONA REVISED STATUTES"

27 Page 3, line 28, after "FACILITY" insert "AND WITHOUT ANY REDUCTIONS FOR PAYMENTS
28 MADE PURSUANT TO THE PREAPPROVAL PROGRAM PRESCRIBED BY SECTIONS 49-1051 AND
29 49-1053, ARIZONA REVISED STATUTES"

Senate Amendments to H.B. 2310

1 Page 4, line 1, after "MADE" insert "PURSUANT TO THIS SECTION"

2 Amend title to conform

STEVE SMITH

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04/02/2018

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S: GH/JN/lb