

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1396

By: Representative Leding

For An Act To Be Entitled

AN ACT CONCERNING INVESTIGATION, SITE ASSESSMENT, AND CORRECTIVE ACTION RELATING TO STORAGE TANKS; TO CLARIFY THE RIGHT OF THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND AN OWNER OR OPERATOR TO ACCESS PROPERTY FOR PURPOSES OF INVESTIGATION, SITE ASSESSMENT, OR CORRECTIVE ACTION; TO PROHIBIT A RELEASE SITE PROPERTY OWNER OR ADJACENT PROPERTY OWNER FROM INTERFERING WITH INVESTIGATION, SITE ASSESSMENT, OR CORRECTIVE ACTIONS; TO CLARIFY THE RIGHTS OF A RELEASE SITE PROPERTY OWNER OR ADJACENT PROPERTY OWNER WITH RESPECT TO INVESTIGATION, SITE ASSESSMENT, OR CORRECTIVE ACTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE RIGHT OF THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY AND AN OWNER OR OPERATOR TO ACCESS PROPERTY FOR PURPOSES OF INVESTIGATION, SITE ASSESSMENT, OR CORRECTIVE ACTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-7-801, concerning the definitions to be used in relation to regulated substance storage tanks, is amended to add an additional subdivision to read as follows:

(14) "Release site property owner" means a person, other than an



owner or operator, that owns an interest in a property on which a release has occurred.

SECTION 2. Arkansas Code § 8-7-807(c), concerning the responsibility and liability of an owner in relation to a regulated substance storage tank, is amended to read as follows:

(c)(1)(A) ~~No~~ A release site property owner or adjacent property owner shall not unduly impede or interfere with ~~any~~ the efforts of the department or the owner or operator to undertake investigation, site assessment, or corrective action in accordance with the requirements of this subchapter.

(B) The department or the owner or operator shall undertake investigation, site assessment, or corrective action, as approved by the department after notice to the affected parties, that minimizes to the most reasonable extent practicable any interference with the release site property owner's or adjacent property owner's use and enjoyment of the property, taking into consideration the relevant private and commercial interests and the release site property owner's or adjacent property owner's need for access.

(2)(A) ~~Any~~ A release site property owner or adjacent property owner violating that violates subdivision (c)(1) of this section ~~shall be~~ is liable for any investigation, site assessment, or corrective action costs resulting from ~~such~~ the violation.

(B) If the release site property owner or adjacent property owner denies access to property when ~~such~~ the access is reasonably necessary for investigation, site assessment, or corrective action undertaken by the department or by the owner or operator under a department directive, order, or approved corrective action plan, the department may order the release site property owner or adjacent property owner to undertake the portion of investigation, site assessment, or corrective action ~~which~~ that was prohibited by the denial of access.

(3) This section does not impair any right of the release site property owner or adjacent property owner to seek equitable or legal remedies, including without limitation claims for trespass, compensation as the result of eminent domain, damages for temporary or permanent takings of rights in land, contribution, and any other right or remedy allowed by state or federal law or regulation.