

Conservation and Environment Amendment #1

AMENDMENT NO. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 1441 House Bill No. 901

by deleting all language after the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 68-212-224(a), is hereby amended by deleting the word “by” in the last clause of the provision and inserting a comma in place thereof.

Section 2. Tennessee Code Annotated, Section 68-212-224(d), is hereby renumbered as clause (d)(1) and the second sentence of (d)(1) is deleted in its entirety.

A new clause (d)(2) is hereby added as follows:

(d)(2) Once a consent order has been entered, the commissioner has the discretion and is authorized to expend monies from the remedial action fund to pay that portion of the investigation, cleanup, monitoring, maintenance and oversight of an inactive hazardous substance site to the extent such expenditures are not allocated under the consent order to the potentially liable party conducting the investigation and cleanup of the inactive hazardous substance site pursuant to this program. The commissioner is authorized to seek recovery of such expenditures from the remedial action fund from other liable parties in the full amount of their respective allocated share of liability by any legal remedy through the exercise of his powers and duties as established by this part; provided, however, that if the consent order establishes an allocation of liability for the potentially liable party participating in the voluntary program, the

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commissioner may not assess the participant for a share of liability greater than the allocation established in the consent order.

Section 3. Tennessee Code Annotated, Section 68-212-224, is hereby amended by adding a new section (g) as follows:

(g) Upon completion of all terms and conditions agreed to in a consent order under this program, the commissioner shall issue a letter to the potentially liable party participating in the program indicating that such party's obligations under the consent order have been completed and, if appropriate, that no further action will be required of the participating party.

Section 4. Tennessee Code Annotated, Section 68-212-224, is hereby amended by adding a new section (h) as follows:

(h) The commissioner has the discretion and is authorized to establish an allocation of liability consistent with Section 68-212-207(b), in a consent order with a potentially liable party participating in the voluntary program; provided, however, that such allocation shall only be binding among the state, the potentially liable party participating in the voluntary program and to the extent that the participant's obligations under the consent order are fully assumed, the participant's successors-in-title to the hazardous substance site to the extent that such successors'-in-title liability under this part arises by virtue of ownership of the site. Such allocation shall be considered a final determination of the

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participant's liability and shall not (l) constitute an admission of liability, or (ii) have an effect on and be considered in determining the allocable shares of liability of other liable parties for the site. Any allocation included in a consent order under this program shall not be admissible in any suit, hearing or other proceeding that involves a person not a party to such consent order.

Section 5. Tennessee Code Annotated, Section 68-212-205(a), is hereby amended by adding the words "and as set forth in Section 68-212-224" to the end of the section immediately after the word "part" and immediately preceding the period ending the section.

Section 6. This act shall take effect upon becoming a law, the public welfare requiring it.