

HOUSE BILL REPORT

HB 1573

As Reported By House Committee On:
Financial Institutions & Insurance

Title: An act relating to heating oil pollution liability.

Brief Description: Providing for heating oil liability protection.

Sponsors: Representatives L. Thomas, Mielke, Blanton, Wolfe, Rust, Horn and Dellwo.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/8/95, 2/9/95 [DPS].

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives L. Thomas, Chairman; Beeksma, Vice Chairman; Smith, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benton; Campbell; Costa; Dellwo; Dyer; Huff; Kessler; Ogden and Pelesky.

Staff: Charlie Gavigan (786-7340).

Background: In 1989, the Legislature created a state pollution liability reinsurance program. The program provides insurance to insurance companies (reinsurance) that in turn provide insurance to Underground Storage Tank (UST) owners and operators. The program is administered by the Pollution Liability Insurance Agency (PLIA).

The state reinsurance program's objective is to improve the availability and affordability of pollution liability insurance for owners of USTs by selling reinsurance at a price significantly below the private market price for similar reinsurance. This discount is passed onto owners and operators of USTs through reduced insurance premiums and increased availability of insurance.

To fund the program, the Legislature imposed a petroleum products tax of 50 1/100 of 1 percent on the first possession of any petroleum product in the state. The tax applies to the wholesale value of the petroleum product. Petroleum products that are exported for use or sale outside of the state as fuel, and that are packaged for sale to ultimate consumers, are exempt from taxation. Proceeds from the tax are deposited

into the Pollution Liability Reinsurance Program Trust Account to fund the reinsurance program. Collection of this tax must cease whenever the account balance exceeds \$15 million and collection may resume when the balance drops below \$7.5 million. The tax has not been collected since July 1992.

PLIA sunsets (expires) on June 1, 1995.

The lending of credit provisions in the state constitution generally prohibit the state and local governments from making gifts, loans, or guarantees to private businesses and individuals. The court has made exceptions for the poor or infirm, for fundamental government purposes, where there is adequate consideration or where the private benefits are incidental to providing important public benefits.

Summary of Substitute Bill: A program to provide pollution liability insurance for heating oil tanks is created in the Pollution Liability Insurance Agency (PLIA). This program is both an insurance program, covering all heating oil tanks in Washington through a new fee, and a reinsurance program similar to the current reinsurance program in PLIA.

A pollution liability insurance fee is imposed on all heating oil purchased for use in the state. The fee is based on the rate of 6/10 of 1 cent per gallon of heating oil purchased. The fee is remitted to the Department of Licensing for deposit into a new fund, the Heating Oil Liability Trust Account. The fund is used for corrective action costs (such as clean-up of accidental releases), third-party liability claims, purchase of an insurance policy to cover registered heating oil tanks, and administrative expenses. Funds remaining in the Heating Oil Liability Trust Account at the end of the biennium revert to the Pollution Liability Insurance Program Trust Account.

The reinsurance program reduces the insurance premium and is funded and operated through the existing Pollution Liability Insurance Program Trust Account.

The exemption from licensing for persons using special fuel for heating purposes is removed. Special fuel is all fuel except fuel for motor vehicles.

The Heating Oil Pollution Liability Protection Program expires June 1, 2005.

Substitute Bill Compared to Original Bill: The substitute corrects technical errors, increases the amount of the fee, changes the definition of heating oil, limits the coverage of the insurance policy to \$60,000 per occurrence, removes the provision regarding periodic reports to the Legislature, and adds a severability clause.

Appropriation: None.

Fiscal Note: Requested on February 3, 1995.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Homeowners and others face potential liability or cleanup costs from the use of heating oil tanks. This bill takes money from heating oil purchasers through a fee and provides liability insurance to cover the liability and other costs associated with owning a heating oil tank. A public program is necessary because private liability insurance for heating oil tanks is not readily available.

Testimony Against: None.

Testified: Paul Aleinikoff, Cascade Oil Company (pro); Fred Liska, American Distributing Company (pro); Tom Allen, Acme Fuel Company (pro); Ray Betts, Betts Oil Company in Spokane (pro); Pat Dunn, Oil Heat Dealers (pro), Jim Simms, PLIA (pro); and Mike Sciacca, Washington Oil Marketers Association (pro).