

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1789

Chapter 240, Laws of 2007

60th Legislature
2007 Regular Session

HEATING OIL TANKS--LEAKS

EFFECTIVE DATE: 07/22/07

Passed by the House March 7, 2007
Yeas 94 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2007
Yeas 44 Nays 2

BRAD OWEN

President of the Senate

Approved April 30, 2007, 2:16 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1789** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

April 30, 2007

**Secretary of State
State of Washington**

HOUSE BILL 1789

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Representatives Kagi, Priest, Hunter, Jarrett, Dunshee, Orcutt, Linville, Strow, Dickerson, McCoy, B. Sullivan, Lantz, Hunt, Chase, Rodne and Schual-Berke

Read first time 01/29/2007. Referred to Committee on Insurance, Financial Service & Consumer Protection.

1 AN ACT Relating to minimizing the environmental threat caused by
2 leaking home heating oil tanks; amending RCW 70.149.040; adding a new
3 section to chapter 70.149 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.149.040 and 2004 c 203 s 1 are each amended to read
6 as follows:

7 The director shall:

8 (1) Design a program, consistent with section 2 of this act, for
9 providing pollution liability insurance for heating oil tanks that
10 provides up to sixty thousand dollars per occurrence coverage and
11 aggregate limits, and protects the state of Washington from unwanted or
12 unanticipated liability for accidental release claims;

13 (2) Administer, implement, and enforce the provisions of this
14 chapter. To assist in administration of the program, the director is
15 authorized to appoint up to two employees who are exempt from the civil
16 service law, chapter 41.06 RCW, and who shall serve at the pleasure of
17 the director;

18 (3) Administer the heating oil pollution liability trust account,
19 as established under RCW 70.149.070;

1 (4) Employ and discharge, at his or her discretion, agents,
2 attorneys, consultants, companies, organizations, and employees as
3 deemed necessary, and to prescribe their duties and powers, and fix
4 their compensation;

5 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out
6 the provisions of this chapter;

7 (6) Design and from time to time revise a reinsurance contract
8 providing coverage to an insurer or insurers meeting the requirements
9 of this chapter. The director is authorized to provide reinsurance
10 through the pollution liability insurance program trust account;

11 (7) Solicit bids from insurers and select an insurer to provide
12 pollution liability insurance for third-party bodily injury and
13 property damage, and corrective action to owners and operators of
14 heating oil tanks;

15 (8) Register, and design a means of accounting for, operating
16 heating oil tanks;

17 (9) Implement a program to provide advice and technical assistance
18 to owners and operators of active and abandoned heating oil tanks if
19 contamination from an active or abandoned heating oil tank is
20 suspected. Advice and assistance regarding administrative and
21 technical requirements may include observation of testing or site
22 assessment and review of the results of reports. If the director finds
23 that contamination is not present or that the contamination is
24 apparently minor and not a threat to human health or the environment,
25 the director may provide written opinions and conclusions on the
26 results of the investigation to owners and operators of active and
27 abandoned heating oil tanks. The agency is authorized to collect, from
28 persons requesting advice and assistance, the costs incurred by the
29 agency in providing such advice and assistance. The costs may include
30 travel costs and expenses associated with review of reports and
31 preparation of written opinions and conclusions. Funds from cost
32 reimbursement must be deposited in the heating oil pollution liability
33 trust account. The state of Washington, the pollution liability
34 insurance agency, and its officers and employees are immune from all
35 liability, and no cause of action arises from any act or omission in
36 providing, or failing to provide, such advice, opinion, conclusion, or
37 assistance;

1 (10) Establish a public information program to provide information
2 regarding liability, technical, and environmental requirements
3 associated with active and abandoned heating oil tanks;

4 (11) Monitor agency expenditures and seek to minimize costs and
5 maximize benefits to ensure responsible financial stewardship;

6 (12) Create an advisory committee of stakeholders to advise the
7 director on all aspects of program operations and fees authorized by
8 this chapter, including pollution prevention programs. The advisory
9 committee must have one member each from the Pacific Northwest oil heat
10 council, the Washington oil marketers association, the western states
11 petroleum association, and the department of ecology and three members
12 from among the owners of home heating oil tanks registered with the
13 pollution liability insurance agency who are generally representative
14 of the geographical distribution and types of registered owners. The
15 committee should meet at least quarterly, or more frequently at the
16 discretion of the director; and

17 (13) Study if appropriate user fees to supplement program funding
18 are necessary and develop recommendations for legislation to authorize
19 such fees.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.149 RCW
21 to read as follows:

22 (1) The pollution liability insurance agency shall identify design
23 criteria for heating oil tanks that provide superior protection against
24 future leaks as compared to standard steel tank designs. Any tank
25 designs identified under this section must either be constructed with
26 fiberglass or offer at least an equivalent level of protection against
27 leaks as a standard fiberglass design.

28 (2) The pollution liability insurance agency shall reimburse any
29 owner or operator, who is participating in the program created in this
30 chapter and who has experienced an occurrence or remedial action, for
31 the difference in price between a standard steel heating tank and a new
32 heating oil tank that satisfies the design standards identified under
33 subsection (1) of this section, if the owner or operator chooses or is
34 required to replace his or her tank at the time of the occurrence or
35 remedial action.

36 (3) Any new heating oil tank reimbursement provided under this

1 section must be funded within the amount of per occurrence coverage
2 provided to the owner or operator under RCW 70.149.040.

3 NEW SECTION. **Sec. 3.** This act applies prospectively and only to
4 individuals who file a claim with the pollution liability insurance
5 agency on or after the effective date of this section.

Passed by the House March 7, 2007.

Passed by the Senate April 12, 2007.

Approved by the Governor April 30, 2007.

Filed in Office of Secretary of State April 30, 2007.