

# SENATE BILL REPORT

## SSB 5660

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As Passed Senate, March 13, 1995

**Title:** An act relating to heating oil pollution liability.

**Brief Description:** Providing for heating oil liability protection.

**Sponsors:** Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Snyder, Sellar, Fraser, Kohl and Winsley).

**Brief History:**

**Committee Activity:** Financial Institutions & Housing: 2/10/95, 2/16/95 [DPS-WM].

Ways & Means: 3/2/95, 3/6/95 [DPS (FIH)].

Passed Senate, 3/13/95, 45-1.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

**Majority Report:** That Substitute Senate Bill No. 5660 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Hale, Roach, Sellar and Sutherland.

**Staff:** Catherine Mele (786-7470)

**Background:** In 1989, the Legislature created the Pollution Liability Insurance Agency (PLIA). This agency was created in response to the requirements of the Environmental Protection Agency (EPA) that owners and operators of petroleum underground storage tanks demonstrate financial responsibility for the cleanup of contamination resulting from spills or releases of petroleum.

After reviewing several proposals to assist the owners and operators of underground storage tanks with the financial responsibility requirements, the Legislature adopted the PLIA reinsurance program. The PLIA program provides reinsurance to commercial insurance companies which in turn provide pollution liability insurance to underground storage tank owners and operators in Washington.

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

PLIA program and administrative expenses are paid from the pollution liability insurance agency trust account. To fund the program, the Legislature imposed a petroleum products tax of 0.50 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 exported for

use and sale outside the state as fuel, and those products packaged for sale to ultimate consumers are exempt from taxation. Collection of the tax ceases whenever the account balance exceeds \$15 million and resumes when the balance drops below \$7.5 million. The state has not collected the tax since July 1992.

PLIA expires on June 1, 1995.

**Summary of Bill:** A program to provide pollution liability insurance for heating oil tanks is created in the Pollution Liability Insurance Agency (PLIA). This program is to be a reinsurance program which makes liability insurance available and affordable to heating oil tank owners.

To fund the program, a pollution liability insurance fee is imposed on heating oil purchased within the state. The fee is based on the rate of six tenths of one cent per gallon of heating oil purchased. The fee is collected by the Department of Licensing for deposit into the heating oil liability trust account. The fund is used to purchase an insurance policy that provides for corrective action costs, third party liability damages and defense costs, and administrative expenses. The insurance is limited to \$60,000 per occurrence.

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

PLIA must report to the Legislature annually on the Heating Oil Pollution Liability Protection Program. The Heating Oil Liability Protection Program expires June 1, 2001.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Liability for contamination resulting from a home heating oil tank spill or leak is recognized as a serious potential problem and a financial hardship for homeowners, small businesses, churches, schools, and other users of oil heat. The problem has recently become more apparent because some realtors and/or lenders are reluctant to handle transactions when an underground storage heating oil tank is on the premises, whether it is in use or abandoned.

Many, if not most, homeowner insurance policies have a pollution exclusion and provide no coverage. Currently there is one insurance company that sells coverage strictly for heating oil tanks, but such a policy is expensive and not affordable to most consumers. This program will provide this insurance for these consumers.

**Testimony Against:** None.

**Testified:** Paul Aleinikoft, Oil Heat Institute (pro); Mike Sciacca, WOMA (pro); Fred Liska, Oil Heat Institute (pro); Tom Allen, Acme Fuel Company; Vern Lindskog (pro).

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5660 as recommended by Committee on Financial Institutions & Housing be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Gaspard, Long, Pelz, Roach, Sheldon, Snyder, Spanel, West, Winsley and Wojahn.

**Staff:** Susan Lucas (786-7711)

**Testimony For:** The heating oil dealers suggested the program and they support the bill.

**Testimony Against:** None.

**Testified:** Victoria Chiechi Hinze, Oil Heat Institute.