CERTIFICATION OF ENROLLMENT

**SENATE BILL 6159**

65th Legislature

2018 Regular Session

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| Passed by the Senate March 6, 2018  Yeas 49 Nays 0  **President of the Senate**  Passed by the House February 28, 2018  Yeas 98 Nays 0  **Speaker of the House of Representatives** | CERTIFICATE  I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6159** as passed by Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SENATE BILL 6159**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2018 Regular Session

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Takko, Honeyford, Fain, and Chase; by request of Department of Ecology

AN ACT Relating to the reauthorization of the underground storage tank program; and amending RCW 43.131.393, 43.131.394, and 70.149.040.

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

**Sec.**  RCW 43.131.393 and 2007 c 147 s 10 are each amended to read as follows:

The underground storage tank program shall be terminated on July 1, ((~~2019~~)) 2029, as provided in RCW 43.131.394.

**Sec.**  RCW 43.131.394 and 2007 c 147 s 11 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, ((~~2020~~)) 2030:

(1) RCW 90.76.005 and 2007 c 147 s 1 & 1989 c 346 s 1;

(2) RCW 90.76.010 and 2013 c 144 s 53, 2011 c 298 s 39, 2007 c 147 s 2, 1998 c 155 s 1, & 1989 c 346 s 2;

(3) RCW 90.76.020 and 2013 c 144 s 54, 2011 c 298 s 40, 2007 c 147 s 3, 1998 c 155 s 2, & 1989 c 346 s 3;

(4) RCW 90.76.040 and 1998 c 155 s 3 & 1989 c 346 s 5;

(5) RCW 90.76.050 and 2007 c 147 s 4, 1998 c 155 s 4, & 1989 c 346 s 6;

(6) RCW 90.76.060 and 1998 c 155 s 5 & 1989 c 346 s 7;

(7) RCW 90.76.070 and 2007 c 147 s 5 & 1989 c 346 s 8;

(8) RCW 90.76.080 and 2007 c 147 s 6, 1995 c 403 s 639, & 1989 c 346 s 9;

(9) RCW 90.76.090 and 2007 c 147 s 7, 1998 c 155 s 6, & 1989 c 346 s 10;

(10) RCW 90.76.100 and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;

(11) RCW 90.76.110 and 2007 c 147 s 8, 1991 c 83 s 1, & 1989 c 346 s 12;

(12) RCW 90.76.900 and 1989 c 346 s 15;

(13) RCW 90.76.901 and 1989 c 346 s 14; and

(14) RCW 90.76.902 and 1989 c 346 s 18.

**Sec.**  RCW 70.149.040 and 2017 c 23 s 4 are each amended to read as follows:

The director shall:

(1) Design a program, consistent with RCW 70.149.120, for providing pollution liability insurance for heating oil tanks that provides up to sixty thousand dollars per occurrence coverage and aggregate limits, not to exceed fifteen million dollars each calendar year, and protects the state of Washington from unwanted or unanticipated liability for accidental release claims;

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

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

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

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

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

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

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

(9) Implement a program to provide advice and technical assistance on the administrative and technical requirements of this chapter and chapter 70.105D RCW to persons who are conducting or otherwise interested in independent remedial actions at facilities where there is a suspected or confirmed release from the following petroleum storage tank systems: A heating oil tank; a decommissioned heating oil tank; an abandoned heating oil tank; or a petroleum storage tank system identified by the department of ecology based on the relative risk posed by the release to human health and the environment, as determined under chapter 70.105D RCW, or other factors identified by the department of ecology.

(a) Such advice or assistance is advisory only, and is not binding on the pollution liability insurance agency or the department of ecology. As part of this advice and assistance, the pollution liability insurance agency may provide written opinions on whether independent remedial actions or proposals for these actions meet the substantive requirements of chapter 70.105D RCW, or whether the pollution liability insurance agency believes further remedial action is necessary at the facility. As part of this advice and assistance, the pollution liability insurance agency may also observe independent remedial actions.

(b) The agency is authorized to collect, from persons requesting advice and assistance, the costs incurred by the agency in providing such advice and assistance. The costs may include travel costs and expenses associated with review of reports and preparation of written opinions and conclusions. Funds from cost reimbursement must be deposited in the heating oil pollution liability trust account.

(c) The state of Washington, the pollution liability insurance agency, and its officers and employees are immune from all liability, and no cause of action arises from any act or omission in providing, or failing to provide, such advice, opinion, conclusion, or assistance;

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

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

(12) Study if appropriate user fees to supplement program funding are necessary and develop recommendations for legislation to authorize such fees;

(13) Establish requirements, including deadlines not to exceed ninety days, for reporting to the pollution liability insurance agency a suspected or confirmed release from a heating oil tank, including a decommissioned or abandoned heating oil tank, that may pose a threat to human health or the environment by the owner or operator of the heating oil tank or the owner of the property where the release occurred;

(14) Within ninety days of receiving information and having a reasonable basis to believe that there may be a release from a heating oil tank, including decommissioned or abandoned heating oil tanks, that may pose a threat to human health or the environment, perform an initial investigation to determine at a minimum whether such a release has occurred and whether further remedial action is necessary under chapter 70.105D RCW. The initial investigation may include, but is not limited to, inspecting, sampling, or testing. The director may retain contractors to perform an initial investigation on the agency's behalf;

(15) For any written opinion issued under subsection (9) of this section requiring an environmental covenant as part of the remedial action, consult with, and seek comment from, a city or county department with land use planning authority for real property subject to the environmental covenant prior to the property owner recording the environmental covenant; and

(16) For any property where an environmental covenant has been established as part of the remedial action approved under subsection (9) of this section, periodically review the environmental covenant for effectiveness. The director shall perform a review at least once every five years after an environmental covenant is recorded.

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