

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6130

Chapter 155, Laws of 1998

55th Legislature
1998 Regular Session

UNDERGROUND STORAGE TANK REGULATION--REVISIONS

EFFECTIVE DATE: 6/11/98

Passed by the Senate March 7, 1998
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 4, 1998
YEAS 97 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 25, 1998

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6130** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 25, 1998 - 4:41 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6130

AS AMENDED BY THE HOUSE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Fraser, Patterson and Winsley; by request of Department of Ecology)

Read first time 01/28/98.

1 AN ACT Relating to underground storage tanks; amending RCW
2 90.76.010, 90.76.020, 90.76.040, 90.76.050, 90.76.060, and 90.76.090;
3 adding new sections to chapter 43.131 RCW; repealing RCW 90.76.030 and
4 90.76.903; and providing an expiration date.

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

6 **Sec. 1.** RCW 90.76.010 and 1989 c 346 s 2 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Department" means the department of ecology.

11 (2) "Director" means the director of the department.

12 (3) "Facility compliance tag" means a marker, constructed of metal,
13 plastic, or other durable material, that clearly identifies all
14 qualifying underground storage tanks on the particular site for which
15 it is issued.

16 (4) "Federal act" means the federal resource conservation and
17 recovery act, as amended (42 U.S.C. Sec. 6901, et seq.).

1 (~~(4)~~) (5) "Federal regulations" means the underground storage
2 tanks regulations (40 C.F.R. Secs. 280 and 281) adopted by the United
3 States environmental protection agency under the federal act.

4 Except as provided in this section and any rules adopted by the
5 department under this chapter, the definitions contained in the federal
6 regulations apply to the terms in this chapter.

7 **Sec. 2.** RCW 90.76.020 and 1989 c 346 s 3 are each amended to read
8 as follows:

9 (1) (~~(By July 1, 1990,)~~) The department shall adopt rules
10 establishing requirements for all underground storage tanks that are
11 regulated under the federal act, taking into account the various
12 classes or categories of tanks to be regulated. The rules must be
13 consistent with and no less stringent than the federal regulations and
14 consist of requirements for the following:

15 (a) New underground storage tank system design, construction,
16 installation, and notification;

17 (b) Upgrading existing underground storage tank systems;

18 (c) General operating requirements;

19 (d) Release detection;

20 (e) Release reporting;

21 (f) Out-of-service underground storage tank systems and closure;
22 and

23 (g) Financial responsibility for underground storage tanks
24 containing regulated substances.

25 (2) (~~(By July 1, 1990,)~~) The department shall adopt rules:

26 (a) Establishing physical site criteria to be used in designating
27 local environmentally sensitive areas;

28 (b) Establishing procedures for local government application for
29 this designation; and

30 (c) Establishing procedures for local government adoption and
31 department approval of rules more stringent than the state-wide
32 standards in these designated areas.

33 (3) (~~(By July 1, 1990,)~~) The department shall establish by rule an
34 administrative and enforcement program that is consistent with and no
35 less stringent than the program required under the federal regulations
36 in the areas of:

37 (a) Compliance monitoring, including procedures for recordkeeping
38 and a program for systematic inspections;

- 1 (b) Enforcement;
- 2 (c) Public participation; and
- 3 (d) Information sharing.

4 (4) (~~By July 1, 1990, the department shall establish a program~~
5 ~~that provides for the tagging of underground storage tanks. Tanks are~~
6 ~~not eligible for tagging unless the owner or operator is in compliance~~
7 ~~with the requirements of this chapter and annual state and local tank~~
8 ~~fees have been remitted. The tank tagging program shall be designed to~~
9 ~~ensure that tags will be clearly identifiable to persons delivering~~
10 ~~regulated substances to underground storage tanks.~~

11 (5)) The department shall establish a program that provides for
12 the annual licensing of underground storage tanks. The license shall
13 take the form of a tank endorsement on the facility's annual master
14 business license issued by the department of licensing. A tank is not
15 eligible for a license unless the owner or operator can demonstrate
16 compliance with the requirements of this chapter and the annual tank
17 fees have been remitted. The department may revoke a tank license if
18 a facility is not in compliance with this chapter. The master business
19 license shall be displayed by the tank owner or operator in a location
20 clearly identifiable.

21 (5)(a) The department shall issue a one-time "facility compliance
22 tag" to correspond with the December 22, 1998, underground storage tank
23 compliance deadline for corrosion, spill, and overfill protection.
24 Facility compliance tags may only be issued for facilities that have
25 installed the equipment required to meet corrosion, spill, and overfill
26 protection standards that are required by December 22, 1998, and at the
27 time of tag issuance have demonstrated financial responsibility and
28 paid annual tank fees. The facility shall continue to maintain
29 compliance with corrosion, spill, and overfill protection standards,
30 and financial responsibility, and have remitted annual tank fees to
31 display a facility compliance tag. The facility compliance tag shall
32 be displayed on the fire emergency shutoff device, or in the absence of
33 such a device in close proximity to the fill pipes and clearly
34 identifiable to persons delivering regulated substance to underground
35 storage tanks.

36 (b) The department may revoke a facility compliance tag if a
37 facility is not in compliance with the requirements needed to obtain or
38 display the tag.

1 (6) The department may establish programs to certify persons who
2 conduct inspections, testing, closure, cathodic protection, interior
3 tank lining, corrective action, or other activities required under this
4 chapter. Certification programs shall be designed to ensure that each
5 certification will be effective in all jurisdictions of the state.

6 ~~((+6+))~~ (7) When adopting rules under this chapter, the department
7 shall consult with the state building code council to ensure
8 coordination with the building and fire codes adopted under chapter
9 19.27 RCW.

10 **Sec. 3.** RCW 90.76.040 and 1989 c 346 s 5 are each amended to read
11 as follows:

12 (1) A city, town, or county may apply to the department to have an
13 area within its jurisdictional boundaries designated an environmentally
14 sensitive area. A city, town, or county may submit a joint application
15 with any other city, town, or county for joint administration under
16 chapter 39.34 RCW of a single environmentally sensitive area located in
17 both jurisdictions.

18 (2) A city, town, or county may adopt proposed ordinances or
19 resolutions establishing requirements for underground storage tanks
20 located within an environmentally sensitive area that are more
21 stringent than the state-wide standards established under RCW
22 90.76.020. ~~((If application for the designation of an environmentally
23 sensitive area is made later than five years after the date of final
24 adoption of the rules required under this chapter,))~~ Proposed local
25 ordinances and resolutions shall only apply to new underground storage
26 tank installations. The local government adopting the ordinances and
27 resolutions shall submit them to the department for approval.
28 Disapproved ordinances and resolutions may be modified and resubmitted
29 to the department for approval. Proposed local ordinances and
30 resolutions become effective when approved by the department.

31 (3) The department shall approve or disapprove each proposed local
32 ordinance or resolution based on the following criteria:

33 (a) The area to be regulated is found to be an environmentally
34 sensitive area based on rules adopted by the department; and

35 (b) The proposed local regulations are reasonably consistent with
36 previously approved local regulations for similar environmentally
37 sensitive areas.

1 (4) A city, town, or county for which a proposed local ordinance or
2 resolution establishing more stringent requirements is approved by the
3 department may establish local tank fees that meet the requirements of
4 RCW 90.76.090, if such fees are necessary for enhanced program
5 administration or enforcement.

6 **Sec. 4.** RCW 90.76.050 and 1989 c 346 s 6 are each amended to read
7 as follows:

8 ~~((Regulated substances shall not be delivered to any underground
9 storage tank in the state required to be tagged under RCW 90.76.020
10 unless proof of valid tagging is displayed on such tank itself or the
11 dispensing or measuring device connected thereto or, where appropriate,
12 in the office or kiosk of the facility where the tank is located.)) (1)
13 Between the effective date of this section and December 22, 1998,
14 persons delivering regulated substances to underground storage tanks
15 shall not deliver to facilities that do not have an underground storage
16 tank license. This subsection expires December 22, 1998.~~

17 (2) After December 22, 1998, persons delivering regulated
18 substances to underground storage tanks shall not deliver to facilities
19 that do not have a facility compliance tag displayed as required in RCW
20 90.76.020(5)(a).

21 (3) A supplier shall not refuse to deliver regulated substances to
22 an underground storage tank regulated under this chapter on the basis
23 of its potential to leak contents where the ((tank)) facility is either
24 tagged as required in ((RCW 90.76.020)) this chapter or is in
25 compliance with federal underground storage tank regulations and any
26 state or local regulations then in effect. This section does not apply
27 to a supplier who does not directly transfer a regulated substance into
28 an underground storage tank.

29 **Sec. 5.** RCW 90.76.060 and 1989 c 346 s 7 are each amended to read
30 as follows:

31 (1) If necessary to determine compliance with the requirements of
32 this chapter, an authorized representative of the state engaged in
33 compliance inspections, monitoring, and testing may, by request,
34 require an owner or operator to submit relevant information or
35 documents. The department may subpoena witnesses, documents, and other
36 relevant information that the department deems necessary. In the case
37 of any refusal to obey the subpoena, the superior court for any county

1 in which the person is found, resides, or transacts business has
2 jurisdiction to issue an order requiring the person to appear before
3 the department and give testimony or produce documents. Any failure to
4 obey the order of the court may be punished by the court as contempt.

5 (2) Any authorized representative of the state may require an owner
6 or operator to conduct monitoring or testing.

7 (3) Upon reasonable notice, an authorized representative of the
8 state may enter a premises or site subject to regulation under this
9 chapter or in which records relevant to the operation of an underground
10 storage tank system are kept. In the event of an emergency or in
11 circumstances where notice would undermine the effectiveness of an
12 inspection, notice is not required. The authorized representative may
13 copy these records, obtain samples of regulated substances, and inspect
14 or conduct monitoring or testing of an underground storage tank system.

15 (4) For purposes of this section, the term "authorized
16 representative" or "authorized representative of the state" means an
17 enforcement officer, employee, or representative of the department ((or
18 a local government unit that has obtained enforcement authority under
19 RCW 90.76.030)).

20 **Sec. 6.** RCW 90.76.090 and 1989 c 346 s 10 are each amended to read
21 as follows:

22 (1) ~~((An annual state tank fee of sixty dollars per tank for fiscal~~
23 ~~years ending June 30, 1990, and June 30, 1991, and seventy five dollars~~
24 ~~per tank each fiscal year thereafter, shall be paid no later than the~~
25 ~~December 31st of each fiscal year)) An annual tank fee of one hundred
26 dollars per tank is effective from July 1, 1998, to June 30, 1999.
27 Annually, beginning on July 1, 1999, and upon a finding by the
28 department that a fee increase is necessary, the previous tank fee
29 amount may be increased up to the fiscal growth factor for the next
30 year. The fiscal growth factor is calculated by the office of
31 financial management under RCW 43.135.025 for the upcoming biennium.
32 The department shall use the fiscal growth factor to calculate the fee
33 for the next year and shall publish the new fee by March 1st before the
34 year for which the new fee is effective. The new tank fee is effective
35 from July 1st to June 30th of every year. The tank fee shall be paid
36 by every person who:~~

37 (a) Owns an underground storage tank located in this state; and

1 (b) Was required to provide notification to the department under
2 the federal act.

3 This fee is not required of persons who have (i) permanently closed
4 their tanks, and (ii) if required, have completed corrective action in
5 accordance with the rules adopted under this chapter.

6 (2) The department may authorize the imposition of additional
7 annual local tank fees in environmentally sensitive areas designated
8 under RCW 90.76.040. Annual local tank fees may not exceed fifty
9 percent of the annual state tank fee.

10 (3) State and local tank fees collected under this section shall be
11 deposited in the account established under RCW 90.76.100.

12 (4) Other than the annual local tank fee authorized for
13 environmentally sensitive areas, no local government may levy an annual
14 tank fee on the ownership or operation of an underground storage tank.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW
16 to read as follows:

17 The underground storage tank program shall be terminated on July 1,
18 2009, as provided in section 8 of this act.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW
20 to read as follows:

21 The following acts or parts of acts, as now existing or hereafter
22 amended, are each repealed, effective July 1, 2010:

23 (1) RCW 90.76.005 and 1989 c 346 s 1;

24 (2) RCW 90.76.010 and 1998 c . . . s 1 (section 1 of this act) &
25 1989 c 346 s 2;

26 (3) RCW 90.76.020 and 1998 c . . . s 2 (section 2 of this act) &
27 1989 c 346 s 3;

28 (4) RCW 90.76.040 and 1998 c . . . s 3 (section 3 of this act) &
29 1989 c 346 s 5;

30 (5) RCW 90.76.050 and 1998 c . . . s 4 (section 4 of this act) &
31 1989 c 346 s 6;

32 (6) RCW 90.76.060 and 1998 c . . . s 5 (section 5 of this act) &
33 1989 c 346 s 7;

34 (7) RCW 90.76.070 and 1989 c 346 s 8;

35 (8) RCW 90.76.080 and 1995 c 403 s 639 & 1989 c 346 s 9;

36 (9) RCW 90.76.090 and 1998 c . . . s 6 (section 6 of this act) &
37 1989 c 346 s 10;

- 1 (10) RCW 90.76.100 and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;
- 2 (11) RCW 90.76.110 and 1991 c 83 s 1 & 1989 c 346 s 12;
- 3 (12) RCW 90.76.120 and 1989 c 346 s 13;
- 4 (13) RCW 90.76.900 and 1989 c 346 s 15;
- 5 (14) RCW 90.76.901 and 1989 c 346 s 14; and
- 6 (15) RCW 90.76.902 and 1989 c 346 s 18.

7 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
8 repealed:

- 9 (1) RCW 90.76.030 and 1989 c 346 s 4; and
- 10 (2) RCW 90.76.903 and 1989 c 346 s 17.

Passed the Senate March 7, 1998.

Passed the House March 4, 1998.

Approved by the Governor March 25, 1998.

Filed in Office of Secretary of State March 25, 1998.