

HOUSE BILL REPORT

SSB 5475

As Passed House:

April 9, 2007

Title: An act relating to underground storage tanks.

Brief Description: Modifying provisions affecting underground storage tanks.

Sponsors: By Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Poulsen, Honeyford, Regala and Kohl-Welles; by request of Department of Ecology).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/28/07 [DP];

Appropriations: 3/31/07, 4/2/07 [DP].

Floor Activity:

Passed House: 4/9/07, 98-0.

Brief Summary of Substitute Bill

- Requires the Department of Ecology to adopt rules to implement statewide requirements for underground storage tanks consistent with, and no less stringent than, the federal Underground Storage Tank Compliance Act of 2005.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 14 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson, Eickmeyer, Grant, Hailey, Kagi, McCoy, Newhouse, Orcutt, Strow and VanDeWege.

Staff: Colleen Kerr (786-7168).

HOUSE COMMITTEE ON APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Bernard Dean (786-7130).

Background:

Underground Storage Tank Systems

An underground storage tank system (UST) is a tank and any connected underground piping that has at least 10 percent of its combined volume underground. Regulations apply to those USTs that store either petroleum or certain hazardous substances.

The following USTs do not need to meet state or federal requirements for USTs:

- farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes;
- tanks storing heating oil used on the premises where it is stored;
- tanks on or above the floor of underground areas, such as basements or tunnels;
- septic tanks and systems for collecting storm water and wastewater;
- flow-through process tanks;
- tanks of 110 gallons or less capacity; and
- emergency spill and overfill tanks.

Federal UST Regulation

Congress created the Underground Storage Tank Compliance Act in the U.S. Energy Policy Act of 2005. This law amended the Underground Storage Tank Regulatory Program (Program), which was created to reduce leaks into the environment from USTs.

Congress created the Program in 1984 by adding Subtitle I to the Resource Conservation and Recovery Act (RCRA). Subtitle I required the Environmental Protection Agency (EPA) to develop a comprehensive regulatory program for those USTs that store petroleum or certain other hazardous substances. Congress directed the EPA to publish regulations that would require owners and operators of new tanks and tanks already in the ground to prevent, detect, and clean up releases. At that time, Congress also banned the installation of unprotected steel tanks and piping beginning in 1985. Before 1985, most USTs were made of bare steel, which over time would corrode and leak its contents into the environment. The greatest concern was that underground storage tanks would leak petroleum or other hazardous substances into ground water, potentially contaminating the source of drinking water.

In 1986, Congress amended Subtitle I of RCRA and created the Leaking Underground Storage Tank Trust Fund. Congress also established financial responsibility requirements and directed the EPA to publish regulations that would require UST owners and operators to demonstrate they are financially capable of cleaning up releases and compensating third parties for resulting damages.

In 1988, the EPA issued three categories of UST regulations: technical regulations, financial responsibility regulations, and state program approval objectives. The EPA's technical regulations for USTs are designed to reduce the chance of releases from USTs, detect leaks and spills when they do occur, and secure a prompt cleanup; UST owners and operators are responsible for reporting and cleaning up any releases. The financial responsibility regulations were designed to ensure that, in the event of a leak or spill, an owner or operator will have the resources to pay for costs associated with cleaning up releases and compensating third parties. With regard to state program approval objections, the EPA recognized that state and local governments are in the best position to oversee UST regulation; Subtitle I of RCRA allows state UST programs approved by EPA to operate in lieu of the federal program, and EPA's state program approval regulations set standards for state programs to meet. Federal law provides that states may have more stringent regulations than the federal requirements.

State UST Regulation

The U.S. Environmental Protection Agency has delegated its authority for the UST Program to the state, where the Department of Ecology (DOE) implements the program.

The DOE currently regulates more than 11,000 active tanks on approximately 4,000 different properties, including gas stations, industries, commercial properties, and governmental entities. The agency works to ensure these tanks are installed, managed, and monitored in a manner that prevents releases into the environment. To do so, the agency conducts compliance inspections on about 250 sites per year and provides technical assistance to tank owners. The DOE currently inspects each UST at least once every five years.

The 2005 UST Compliance Act adds new requirements for state and federal underground storage tank programs.

Summary of Bill:

The DOE must adopt rules to implement statewide requirements for underground storage tanks that are consistent with and no less stringent than the federal UST Compliance Act of 2005.

To meet federal Energy Policy Act requirements the DOE must ensure ground water protection measures include secondary containment and monitoring for new installation or replacement of all underground storage tanks systems or components; implement a "red tag" program to prevent delivery of regulated substances to USTs that have significant violations; and develop a program for owner and operator training.

The tank inspection fee is raised from \$100 to \$160 over three years in \$20 increments. If the department receives additional federal grant funding, there will be no fee increase for the third year. Federal regulations require inspection at least once every three years.

Owners and operators may appeal financial penalties to the DOE instead of the Pollution Control Hearings Board.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Agriculture & Natural Resources)

(In support) This is agency request legislation to bring the state in line with federal requirements. The millions of gallons of gasoline in these tanks and in the ground poses a serious threat to the environment and groundwater in the event of release. This bill and these regulations are to ensure that the USTs keep these substances where they belong and not in the state's groundwater. Additional points of interest in the bill are that the state is required to deliver an owner and operator training program and that the incremental increase in the fee represents an agreement with the industry. The training program is an important function of the regulatory framework in that there is high turnover in the UST owners and operators and this will help to standardize the operation of the USTs for those individuals while they are working in that capacity.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) If passed, this bill would allow the Department of Ecology to continue the Underground Storage Tank Program and meet the new federal requirements for inspection frequencies. The program hasn't raised its fees since 1998. In discussions with the regulated community, we've agreed to a graduated rise in the fees capped at \$160. If federal funding is available, the cap would be lowered.

(Opposed) None.

Persons Testifying: (Agriculture & Natural Resources) Jim Pendowski, Department of Ecology.

Persons Testifying: (Appropriations) Jim Pendowski, Department of Ecology.

Persons Signed In To Testify But Not Testifying: (Agriculture & Natural Resources) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.