

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6159**

65th Legislature  
2018 Regular Session

Passed by the Senate March 6, 2018  
Yeas 49 Nays 0

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**President of the Senate**

Passed by the House February 28, 2018  
Yeas 98 Nays 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

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.

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**Secretary**

FILED

**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

Read first time 01/10/18.              Referred to Committee on Energy,  
Environment & Technology.

1            AN ACT Relating to the reauthorization of the underground storage  
2 tank program; and amending RCW 43.131.393, 43.131.394, and  
3 70.149.040.

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

5            **Sec. 1.** RCW 43.131.393 and 2007 c 147 s 10 are each amended to  
6 read as follows:

7            The underground storage tank program shall be terminated on July  
8 1, ((2019)) 2029, as provided in RCW 43.131.394.

9            **Sec. 2.** RCW 43.131.394 and 2007 c 147 s 11 are each amended to  
10 read as follows:

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12 amended, are each repealed, effective July 1, ((2020)) 2030:

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

14            (2) RCW 90.76.010 and 2013 c 144 s 53, 2011 c 298 s 39, 2007 c  
15 147 s 2, 1998 c 155 s 1, & 1989 c 346 s 2;

16            (3) RCW 90.76.020 and 2013 c 144 s 54, 2011 c 298 s 40, 2007 c  
17 147 s 3, 1998 c 155 s 2, & 1989 c 346 s 3;

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

19            (5) RCW 90.76.050 and 2007 c 147 s 4, 1998 c 155 s 4, & 1989 c  
20 346 s 6;

- 1 (6) RCW 90.76.060 and 1998 c 155 s 5 & 1989 c 346 s 7;  
2 (7) RCW 90.76.070 and 2007 c 147 s 5 & 1989 c 346 s 8;  
3 (8) RCW 90.76.080 and 2007 c 147 s 6, 1995 c 403 s 639, & 1989 c  
4 346 s 9;  
5 (9) RCW 90.76.090 and 2007 c 147 s 7, 1998 c 155 s 6, & 1989 c  
6 346 s 10;  
7 (10) RCW 90.76.100 and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;  
8 (11) RCW 90.76.110 and 2007 c 147 s 8, 1991 c 83 s 1, & 1989 c  
9 346 s 12;  
10 (12) RCW 90.76.900 and 1989 c 346 s 15;  
11 (13) RCW 90.76.901 and 1989 c 346 s 14; and  
12 (14) RCW 90.76.902 and 1989 c 346 s 18.

13 **Sec. 3.** RCW 70.149.040 and 2017 c 23 s 4 are each amended to  
14 read as follows:

15 The director shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 (10) Establish a public information program to provide  
2 information regarding liability, technical, and environmental  
3 requirements 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) Study if appropriate user fees to supplement program funding  
7 are necessary and develop recommendations for legislation to  
8 authorize such fees;

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

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

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

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

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