

CERTIFICATION OF ENROLLMENT

SENATE BILL 6159

Chapter 194, Laws of 2018

65th Legislature
2018 Regular Session

UNDERGROUND STORAGE TANK PROGRAM--REAUTHORIZATION

EFFECTIVE DATE: June 7, 2018

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

CYRUS HABIB

President of the Senate

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

FRANK CHOPP

Speaker of the House of Representatives

Approved March 22, 2018 11:47 AM

JAY INSLEE

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.

BRAD HENDRICKSON

Secretary

FILED

March 26, 2018

**Secretary of State
State of Washington**

SENATE BILL 6159

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12 amended, are each repealed, effective July 1, ((2020)) 2030: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.

Passed by the Senate March 6, 2018.
Passed by the House February 28, 2018.
Approved by the Governor March 22, 2018.

Filed in Office of Secretary of State March 26, 2018.

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