

SENATE BILL REPORT

SHB 1454

AS REPORTED BY COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES,
APRIL 2, 1991

Brief Description: Pertaining to the applicability of the uniform fire code to underground storage tank laws.

SPONSORS: House Committee on Environmental Affairs (originally sponsored by Representatives Rust, Horn, Betrozoff and Nealey; by request of Department of Ecology).

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Metcalf, Chairman; Oke, Vice Chairman; Amondson, Barr, Owen, Snyder, and Sutherland.

Staff: Gabrielle Horner (786-7717)

Hearing Dates: March 21, 1991; April 2, 1991

BACKGROUND:

Federal and state laws enacted in the last few years regulate the storage of petroleum and hazardous substances in underground storage tanks (USTs). The state regulatory program was established in 1989 and is consistent with and no less stringent than federal regulations. The state program also includes provisions for regulating USTs in locally designated "environmentally sensitive areas."

State UST law preempts most state and local ordinances which might regulate the same activity. However, the state UST rules do not preempt: (1) local regulations pertaining to emergency response; (2) local UST ordinances existing prior to November 1, 1988, that are more stringent than federal law and the Uniform Fire Code (UFC); and (3) local regulations existing prior to July 1, 1990 that pertain to USTs in street rights of way.

The areas which are regulated by state rules and the Uniform Fire Code are not precisely the same. The UFC regulates the storage of flammable and combustible materials, while the UST rules regulate UST systems which are at least 10 percent below the ground and which store petroleum and hazardous substances.

The Department of Ecology has interpreted that state UST law preempts only those provisions of the UFC which are in direct conflict with the UST rules. The department has identified three areas where there is a direct conflict between the UFC

and state rules: repair of leaking UST systems, closure of a tank in place, and temporary closure of a tank in place.

Some local fire officials contend that existing law provides an overly broad preemption of the UFC in areas where there is not a direct conflict with the state UST standards.

SUMMARY:

Provisions of the Uniform Fire Code (UTC) that are not as strict, and that do not directly conflict with the state underground storage tank rules are not preempted by the state rules.

Appropriation: none

Revenue: none

Fiscal Note: none requested

SUMMARY OF PROPOSED SENATE AMENDMENT:

Underground storage tanks that meet state, federal and local tank improvement standards are not required to meet any additional requirements for physical improvements in local environmentally sensitive areas after January 1, 1991. The primary purpose of local environmentally sensitive areas is for the protection of drinking water resources.

TESTIMONY FOR:

The UFC and the UST rules deal with different substances. The Department of Ecology urges a clarification in regard to the scope of their authority.

TESTIMONY AGAINST: None

TESTIFIED: Tom Eaton, Department of Ecology (pro); Gary Smith, Independent Business Association (pro)