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**SUBSTITUTE SENATE BILL 5263**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Environment & Natural Resources (originally sponsored by Senators Owen, Amondson, Snyder, Matson, Hansen, Conner, Bauer, Newhouse, Anderson and Barr).

Read first time February 8, 1991.

1 AN ACT Relating to underground storage tanks; amending RCW  
2 90.76.040 and 90.76.110.

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

4 **Sec. 1.** RCW 90.76.040 and 1989 c 346 s 5 are each amended to read  
5 as follows:

6 (1) A city, town, or county may apply to the department to have an  
7 area within its jurisdictional boundaries designated an environmentally  
8 sensitive area. A city, town, or county may submit a joint application  
9 with any other city, town, or county for joint administration under  
10 chapter 39.34 RCW of a single environmentally sensitive area located in  
11 both jurisdictions.

12 (2) A city, town, or county may adopt proposed ordinances or  
13 resolutions establishing requirements for underground storage tanks  
14 located within an environmentally sensitive area that are more  
15 stringent than the state-wide standards established under RCW

1 90.76.020. (~~If application for the designation of an environmentally~~  
2 ~~sensitive area is made later than five years after the date of final~~  
3 ~~adoption of the rules required under this chapter, proposed local~~  
4 ~~ordinances and resolutions shall only apply to new underground storage~~  
5 ~~tank installations.)) Except as provided in RCW 90.76.110(3), and for  
6 any other environmentally sensitive areas adopted prior to January 1,  
7 1991, proposed local ordinances and resolutions for the regulation of  
8 underground storage tank installations and upgrades, established under  
9 this section, shall not apply to the installation and upgrade of  
10 underground storage tanks which meet the underground storage tank  
11 upgrading and installation standards adopted under chapter 90.76 RCW,  
12 and federal regulations.~~

13 For the purposes of this subsection, "upgraded and installed" means  
14 physical improvements to, or replacement of, underground storage tank  
15 systems which, at a minimum causes the tank to be replaced or upgraded  
16 to meet the state and federal underground storage tank requirements  
17 applicable on December 23, 1998. The local government adopting the  
18 ordinances and resolutions shall submit them to the department for  
19 approval. Disapproved ordinances and resolutions may be modified and  
20 resubmitted to the department for approval. Proposed local ordinances  
21 and resolutions become effective when approved by the department.

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

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

26 (b) The proposed local regulations are reasonably consistent with  
27 previously approved local regulations for similar environmentally  
28 sensitive areas.

29 (4) A city, town, or county for which a proposed local ordinance or  
30 resolution establishing more stringent requirements is approved by the

1 department may establish local tank fees that meet the requirements of  
2 RCW 90.76.090, if such fees are necessary for enhanced program  
3 administration or enforcement.

4 (5) The purpose of the designation of the environmentally sensitive  
5 area shall be to protect ground or surface waters used for drinking  
6 water purposes or reasonably anticipated as needed for future drinking  
7 water purposes.

8 **Sec. 2.** RCW 90.76.110 and 1989 c 346 s 12 are each amended to read  
9 as follows:

10 (1) Except as provided in RCW 90.76.040 and subsections (2),  
11 ~~((+3+))~~ (4), and ~~((+4+))~~ (5) of this section, the rules adopted under  
12 this chapter supersede and preempt any state or local underground  
13 storage tank law, ordinance, or resolution governing any aspect of  
14 regulation covered by the rules adopted under this chapter.

15 (2) Provisions of the uniform fire code adopted under chapter 19.27  
16 RCW that do not directly conflict with rules adopted under this chapter  
17 are not superseded or preempted. Disputes as to whether there is a  
18 direct conflict between the uniform fire code adopted under chapter  
19 19.27 RCW and the regulations under this chapter shall be submitted to  
20 the state building code council or its successor body for  
21 determination, in consultation with the department of ecology.  
22 Disputes shall be resolved within three working days of submittal to  
23 the council, and if not resolved, within such time, shall be determined  
24 by the local fire official.

25 (3) Local laws, ordinances, and resolutions pertaining to local  
26 authority to take immediate action in response to a release of a  
27 regulated substance are not superseded or preempted.

28 ~~((+3+))~~ (4) City, town, or county underground storage tank  
29 ordinances that are more stringent than the federal regulations and the

1 uniform codes adopted under chapter 19.27 RCW and that are in effect on  
2 November 1, 1988, are not superseded or preempted. A city, town, or  
3 county with an ordinance that meets these criteria shall notify the  
4 department of the existence of that ordinance by July 1, 1989.

5 ~~((4))~~ (5) Local laws, ordinances, and resolutions pertaining to  
6 permits and fees for the use of underground storage tanks in street  
7 right of ways that were in existence prior to July 1, 1990, are not  
8 superseded or preempted.