

HOUSE BILL REPORT

HB 2298

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to underground storage tanks.

Brief Description: Regulating underground storage tanks.

Sponsors: Representatives Chandler, Linville, L. Thomas, Carlson, Costa and Anderson; by request of Department of Ecology.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/19/98, 1/26/98 [DPS];

Appropriations: 2/3/98, 2/5/98 [DPS(AGEC)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Bill Lynch (786-7092).

Background: The Legislature enacted an underground storage tank regulatory program in 1989 in response to the federal Resource Conservation and Recovery Act (RCRA). Under RCRA, the federal Environmental Protection Agency (EPA) was given authority to establish an underground storage tank regulatory program for tanks that store petroleum products or hazardous substances. The EPA program requires leak detection systems, upgrading of tanks, record-keeping systems, corrective or cleanup actions in response to releases, reporting of releases and corrective actions, standards for tank closure, and financial responsibility assurances.

EPA allows states to apply for the authority to administer the underground storage tank program at the state level in lieu of the federal program. The Legislature created a Joint Select Committee on Storage Tanks in 1988 which developed the legislation that was adopted in 1989. The legislation required the Department of Ecology to establish an

underground storage tank program that, at a minimum, met the RCRA standards. EPA has approved the Washington program.

Delegation to Local Governments

When the state underground storage tank law was adopted, local programs that were already in place and that were more stringent than the state or federal requirements were not preempted. Five of these local programs were in place prior to 1989. In establishing the state program, the Department of Ecology was encouraged to delegate program responsibilities to cities and counties. Cities and counties were also authorized to enter into interlocal agreements with fire districts for the fire districts to assume some or all of the delegated responsibilities. No local jurisdictions have sought delegation of this authority since the state law was enacted.

Tagging Requirements

The department established a program for the tagging of underground storage tanks. Tanks are not eligible for tagging unless the owner/operator is in compliance with all requirements and has paid the necessary state and local tank fees. Regulated substances cannot be delivered to an underground storage tank unless they are properly tagged.

Tank Fees

A person who owns an underground storage tank in the state which is subject to the provisions of the program must pay an annual state tank fee of \$75 per tank no later than December 31 of each year. Persons who have permanently closed their tanks are not required to pay the fees. Annual local tank fees may not exceed 50 percent of the annual state tank fee. All fees are deposited into the underground storage tank account. Expenditures from the account may only be spent by legislative appropriation for the administration and enforcement of the program.

Expiration of the Program

The state underground storage tank program is scheduled to expire on July 1, 1999.

Summary of Substitute Bill: The state underground storage tank program is revised and placed on a sunset schedule. The program terminates on July 1, 2009, unless reauthorized by the Legislature.

The section which encouraged the Department of Ecology to delegate administrative responsibility for the underground storage tank program to cities, towns, and counties, and which also allowed these local governments to delegate responsibility to fire districts, is repealed. A city, town, or county with ordinances in effect on November 1, 1988, that were more stringent than the federal government, may still utilize those ordinances.

The tagging program for underground storage tanks is repealed and replaced with an annual licensing program for underground storage tanks. The license consists of a tank endorsement on the facility's annual master business license issued by the Department of Licensing. The master business license must be displayed in a location which is clearly identifiable. A license cannot be issued unless the owner/operator is in compliance with the requirements of the program and paid the annual tank fee.

The department is directed to issue a one-time facility compliance tag to correspond with the underground storage tank compliance deadline of December 22, 1998, for corrosion, spill, and overfill protection. Facilities may only be issued the compliance tag if they have installed the equipment which is required to be installed by December 22, 1998, paid the annual tank fees, and demonstrated financial responsibility. The tag must be displayed on the emergency shutoff device, or in close proximity to the fill pipes. No person may deliver regulated substances to underground storage tanks after December 22, 1998, without the compliance tag displayed. A facility must continue to pay annual tank fees, maintain compliance with corrosion, spill, and overfill protection requirements, maintain financial responsibility, and properly display the facility compliance tag. The department may revoke a facility compliance tag or a tank license for failing to comply with the necessary requirements.

The annual tank fee is raised from \$75 to \$100 per tank beginning on July 1, 1998, and is effective until July 1, 1999. After July 1, 1999, the tank fee may be increased by the department if the department finds that an increase is necessary, but any increase is limited to the fiscal growth factor calculated by the Office of Financial Management and is effective from July 1 to July 1 of each year.

The Department of Ecology is required to establish source control best management practices for wet fueling operations that occur in areas exposed to storm water by December 31, 1998. The practices must protect soil and water to the same extent as best management practices which apply to fixed-base fueling stations. Wet fueling-- is defined as the practice of refueling licensed on-road vehicles from a bulk tank or mobile platform, but does not include off-road vehicles.

Substitute Bill Compared to Original Bill: The separate \$30 fee for a facility compliance tag is eliminated. The annual tank fee is raised from \$90 to \$100. Language is added to require the Department of Ecology to establish source control best management practices for wet fueling operations. Technical amendments are also made.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation represents an agreement by many interests to maintain the state program. The program is viewed as delivering necessary services rather than regulatory. The increase in tank fees allows for catching-up with inflation and are not for increasing the scope of the program. The program has resulted in much fewer releases than before the program was adopted. The state program works well, and should continue at the state level rather than the federal level. There is an ongoing need for the technical assistance the program provides. Requiring wet-fueling standards will put these operations on a level playing field with fixed-base fueling places, such as truck stops, and close a loophole to the underground storage tank laws.

Testimony Against: None.

Testified: Mary Burg, Department of Ecology; Tim Hamilton, Automotive Trades Organization; Charlie Brown, WA Oil Marketing Assn; Mike Paisley, Time Oil; Greg Hanon, Western States Petroleum Assn; Robert Glenly, WA Assn of Neighborhood Stores; and T.K. Bentler, WA Assn of Neighborhood Stores. (All in favor.)

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Carlson; Chopp; Cody; Cooke; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Mastin; McMorris; Parlette; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Minority Report: Without recommendation. Signed by 1 member: Representative Benson.

Staff: Jeff Olsen (786-7157).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is the result of an 18-month process involving numerous stakeholders. The Department of Ecology program works well and should be reauthorized. We do not recommend turning the program over to the Environmental Protection Agency. This is a no-growth program, and the increased fees are to keep up with inflation. The tank tagging program is vital to show which tanks are in compliance with federal requirements. Support the wet fuel amendment; it is necessary to level the playing field.

Testimony Against: (With concerns) We support the original bill but not the substitute. There needs to be a study of the wet fueling issue before suggesting wet fuel is the best management practice.

Testified: Mary Burg, Department of Ecology; Mike Paisley, Time Oil; T. K. Bentler, WA Association of Neighborhood Stores; Robert Grenley, Grenley-Stewart Resources (all in favor); and Bill Staffaucher, Boston Fuel (with concerns).