

ANALYSIS OF HB 2298

House Agriculture & Ecology Committee

January 19, 1998

BACKGROUND:

A. General

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 required 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 allowed states to apply for the authority to administer the underground storage tank program at the state level. 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.

B. Delegation to Local Governments

In establishing the state program, the Department of Ecology was encouraged to delegate program responsibilities to cities and counties. Cities and counties were authorized to enter into interlocal agreements with fire districts for the fire districts to assume some or all of the delegated responsibilities.

C. Tagging Requirements

The Department is required to establish 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.

D. Environmentally Sensitive Area Designation

A city, town, or county may apply individually or jointly to the Department to have an area within its boundaries designated as an environmentally sensitive area. A city, town, or county may adopt proposed ordinances or resolutions which provide more stringent requirements for underground storage tanks located in these areas, but these ordinances may only apply to new underground storage tank installations. The proposed ordinances or resolutions must be submitted to the Department for approval. In considering whether to approve the local ordinances and resolutions, the Department must consider the criteria for these areas which it has adopted by rule as well as whether the local regulations are reasonably consistent with other previously approved local regulations. The city, town, or county may establish local tank fees if they are necessary for enhanced program administration or enforcement within the environmentally sensitive area.

E. 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 31st 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% 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.

F. Annual Report and Expiration

The requirement for the Department to submit an annual report to the appropriate committees of the Legislature ended in 1995. The state underground storage tank program is scheduled to expire on July 1, 1999.

SUMMARY:

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 a program which annually licenses underground storage tanks. The license shall be 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. A tank license may be revoked by the Department if a facility is not in compliance.

The Department is directed to issue a one-time facility compliance tag to correspond with an 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, and if they have paid the necessary fees and demonstrate the necessary financial responsibility. The Department shall charge \$30 for the facility compliance tag.

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 for failing to comply with these requirements. After December 22, 1998, persons delivering regulated substances to underground storage tanks may not deliver to facilities without the compliance tag displayed.

The annual tank fee is raised from \$75 to \$90 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. The tank fee increase is limited to a fiscal growth factor calculated by the Office of Financial Management and is effective from July 1 to July 1 of each year.

The Department is authorized to combine the annual report to the Legislature on the underground storage tank program with other Department reports to increase efficiency.

FISCAL NOTE

A fiscal note was requested on 1/14/98.