

# ANALYSIS OF SSB 6130

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House Agriculture & Ecology Committee  
1998

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February 23,

## **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.

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.

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.

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

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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.

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 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.