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SENATE BILL 6130

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State of Washington

55th Legislature

1998 Regular Session

By Senators Swecker, Fraser, Patterson and Winsley; by request of Department of Ecology

Read first time 01/12/98. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to underground storage tanks; amending RCW  
2 90.76.020, 90.76.040, 90.76.050, 90.76.060, 90.76.090, and 90.76.120;  
3 adding new sections to chapter 43.131 RCW; creating a new section; and  
4 repealing RCW 90.76.030 and 90.76.903.

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

6 **Sec. 1.** RCW 90.76.020 and 1989 c 346 s 3 are each amended to read  
7 as follows:

8 (1) (~~By July 1, 1990,~~) The department shall adopt rules  
9 establishing requirements for all underground storage tanks that are  
10 regulated under the federal act, taking into account the various  
11 classes or categories of tanks to be regulated. The rules must be  
12 consistent with and no less stringent than the federal regulations and  
13 consist of requirements for the following:

14 (a) New underground storage tank system design, construction,  
15 installation, and notification;

16 (b) Upgrading existing underground storage tank systems;

17 (c) General operating requirements;

18 (d) Release detection;

19 (e) Release reporting;

1 (f) Out-of-service underground storage tank systems and closure;  
2 and

3 (g) Financial responsibility for underground storage tanks  
4 containing regulated substances.

5 (2) (~~By July 1, 1990,~~) The department shall adopt rules:

6 (a) Establishing physical site criteria to be used in designating  
7 local environmentally sensitive areas;

8 (b) Establishing procedures for local government application for  
9 this designation; and

10 (c) Establishing procedures for local government adoption and  
11 department approval of rules more stringent than the state-wide  
12 standards in these designated areas.

13 (3) (~~By July 1, 1990,~~) The department shall establish by rule an  
14 administrative and enforcement program that is consistent with and no  
15 less stringent than the program required under the federal regulations  
16 in the areas of:

17 (a) Compliance monitoring, including procedures for recordkeeping  
18 and a program for systematic inspections;

19 (b) Enforcement;

20 (c) Public participation; and

21 (d) Information sharing.

22 (4) (~~By July 1, 1990, the department shall establish a program  
23 that provides for the tagging of underground storage tanks. Tanks are  
24 not eligible for tagging unless the owner or operator is in compliance  
25 with the requirements of this chapter and annual state and local tank  
26 fees have been remitted. The tank tagging program shall be designed to  
27 ensure that tags will be clearly identifiable to persons delivering  
28 regulated substances to underground storage tanks.~~

29 (5)) The department shall establish a program that provides for  
30 the annual licensing of underground storage tanks. The license shall  
31 take the form of a tank endorsement on the facility's annual master  
32 business license issued by the department of licensing. A tank is not  
33 eligible for a license unless the owner or operator can demonstrate  
34 compliance with the requirements of this chapter and the annual tank  
35 fees have been remitted. The department may revoke a tank license if  
36 a facility is not in compliance with this chapter. The master business  
37 license shall be displayed by the tank owner or operator in a location  
38 clearly identifiable.

1       (5)(a) The department shall issue a one-time "facility compliance  
2 tag" to correspond with the December 22, 1998, underground storage tank  
3 compliance deadline for corrosion, spill, and overfill protection.  
4 Facility compliance tags may only be issued for facilities that have  
5 installed the equipment required to meet corrosion, spill, and overfill  
6 protection standards that are required by December 22, 1998, and at the  
7 time of tag issuance have demonstrated financial responsibility and  
8 paid annual tank fees. The facility shall continue to maintain  
9 compliance with corrosion, spill, and overfill protection standards,  
10 and financial responsibility, and have remitted annual tank fees to  
11 display a facility compliance tag. The facility compliance tag shall  
12 be displayed on the fire emergency shutoff device, or in the absence of  
13 such a device in close proximity to the fill pipes and clearly  
14 identifiable to persons delivering regulated substance to underground  
15 storage tanks.

16       (b) After December 22, 1998, persons delivering regulated  
17 substances to underground storage tanks shall not deliver to facilities  
18 that do not have a compliance tag displayed as required.

19       (c) The department may revoke a facility compliance tag if a  
20 facility is not in compliance with the requirements needed to obtain or  
21 display the tag.

22       (d) The department shall charge a fee of thirty dollars to issue a  
23 facility compliance tag.

24       (6) The department may establish programs to certify persons who  
25 conduct inspections, testing, closure, cathodic protection, interior  
26 tank lining, corrective action, or other activities required under this  
27 chapter. Certification programs shall be designed to ensure that each  
28 certification will be effective in all jurisdictions of the state.

29       ~~((+6+))~~ (7) When adopting rules under this chapter, the department  
30 shall consult with the state building code council to ensure  
31 coordination with the building and fire codes adopted under chapter  
32 19.27 RCW.

33       **Sec. 2.** RCW 90.76.040 and 1989 c 346 s 5 are each amended to read  
34 as follows:

35       (1) A city, town, or county may apply to the department to have an  
36 area within its jurisdictional boundaries designated an environmentally  
37 sensitive area. A city, town, or county may submit a joint application  
38 with any other city, town, or county for joint administration under

1 chapter 39.34 RCW of a single environmentally sensitive area located in  
2 both jurisdictions.

3 (2) A city, town, or county may adopt proposed ordinances or  
4 resolutions establishing requirements for underground storage tanks  
5 located within an environmentally sensitive area that are more  
6 stringent than the state-wide standards established under RCW  
7 90.76.020. (~~(If application for the designation of an environmentally~~  
8 ~~sensitive area is made later than five years after the date of final~~  
9 ~~adoption of the rules required under this chapter,)~~) Proposed local  
10 ordinances and resolutions shall only apply to new underground storage  
11 tank installations. The local government adopting the ordinances and  
12 resolutions shall submit them to the department for approval.  
13 Disapproved ordinances and resolutions may be modified and resubmitted  
14 to the department for approval. Proposed local ordinances and  
15 resolutions become effective when approved by the department.

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

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

20 (b) The proposed local regulations are reasonably consistent with  
21 previously approved local regulations for similar environmentally  
22 sensitive areas.

23 (4) A city, town, or county for which a proposed local ordinance or  
24 resolution establishing more stringent requirements is approved by the  
25 department may establish local tank fees that meet the requirements of  
26 RCW 90.76.090, if such fees are necessary for enhanced program  
27 administration or enforcement.

28 **Sec. 3.** RCW 90.76.050 and 1989 c 346 s 6 are each amended to read  
29 as follows:

30 Regulated substances shall not be delivered to any underground  
31 storage tank in the state required to be tagged under (~~(RCW 90.76.020)~~)  
32 this chapter unless proof of valid tagging is displayed on such tank  
33 itself or the dispensing or measuring device connected thereto or,  
34 where appropriate, in the office or kiosk of the facility where the  
35 tank is located. A supplier shall not refuse to deliver regulated  
36 substances to an underground storage tank regulated under this chapter  
37 on the basis of its potential to leak contents where the tank is either  
38 tagged as required in (~~(RCW 90.76.020)~~) this chapter or is in

1 compliance with federal underground storage tank regulations and any  
2 state or local regulations then in effect. This section does not apply  
3 to a supplier who does not directly transfer a regulated substance into  
4 an underground storage tank.

5 **Sec. 4.** RCW 90.76.060 and 1989 c 346 s 7 are each amended to read  
6 as follows:

7 (1) If necessary to determine compliance with the requirements of  
8 this chapter, an authorized representative of the state engaged in  
9 compliance inspections, monitoring, and testing may, by request,  
10 require an owner or operator to submit relevant information or  
11 documents. The department may subpoena witnesses, documents, and other  
12 relevant information that the department deems necessary. In the case  
13 of any refusal to obey the subpoena, the superior court for any county  
14 in which the person is found, resides, or transacts business has  
15 jurisdiction to issue an order requiring the person to appear before  
16 the department and give testimony or produce documents. Any failure to  
17 obey the order of the court may be punished by the court as contempt.

18 (2) Any authorized representative of the state may require an owner  
19 or operator to conduct monitoring or testing.

20 (3) Upon reasonable notice, an authorized representative of the  
21 state may enter a premises or site subject to regulation under this  
22 chapter or in which records relevant to the operation of an underground  
23 storage tank system are kept. In the event of an emergency or in  
24 circumstances where notice would undermine the effectiveness of an  
25 inspection, notice is not required. The authorized representative may  
26 copy these records, obtain samples of regulated substances, and inspect  
27 or conduct monitoring or testing of an underground storage tank system.

28 (4) For purposes of this section, the term "authorized  
29 representative" or "authorized representative of the state" means an  
30 enforcement officer, employee, or representative of the department (~~or~~  
31 ~~a local government unit that has obtained enforcement authority under~~  
32 ~~RCW 90.76.030~~)).

33 **Sec. 5.** RCW 90.76.090 and 1989 c 346 s 10 are each amended to read  
34 as follows:

35 (1) (~~An annual state tank fee of sixty dollars per tank for fiscal~~  
36 ~~years ending June 30, 1990, and June 30, 1991, and seventy five dollars~~  
37 ~~per tank each fiscal year thereafter, shall be paid no later than the~~

1 ~~December 31st of each fiscal year))~~ The annual tank fee of ninety  
2 dollars per tank is effective from July 1, 1998, to July 1, 1999.  
3 Annually, beginning on July 1, 1999, and upon a finding by the  
4 department that a fee increase is necessary, the previous tank fee  
5 amount may be increased up to the fiscal growth factor for the next  
6 year. The fiscal growth factor is calculated by the office of  
7 financial management under RCW 43.135.025 for the upcoming biennium.  
8 The department shall use the fiscal growth factor to calculate the fee  
9 for the next year and shall publish the new fee by March 1st before the  
10 year for which the new fee is effective. The new tank fee is effective  
11 from July 1st to July 1st of every year. The tank fee shall be paid by  
12 every person who:

- 13 (a) Owns an underground storage tank located in this state; and  
14 (b) Was required to provide notification to the department under  
15 the federal act.

16 This fee is not required of persons who have (i) permanently closed  
17 their tanks, and (ii) if required, have completed corrective action in  
18 accordance with the rules adopted under this chapter.

19 (2) The department may authorize the imposition of additional  
20 annual local tank fees in environmentally sensitive areas designated  
21 under RCW 90.76.040. Annual local tank fees may not exceed fifty  
22 percent of the annual state tank fee.

23 (3) State and local tank fees collected under this section shall be  
24 deposited in the account established under RCW 90.76.100.

25 (4) Other than the annual local tank fee authorized for  
26 environmentally sensitive areas, no local government may levy an annual  
27 tank fee on the ownership or operation of an underground storage tank.

28 **Sec. 6.** RCW 90.76.120 and 1989 c 346 s 13 are each amended to read  
29 as follows:

30 The department shall submit an annual report to the appropriate  
31 standing committees of the legislature for five years beginning January  
32 1, 1990, on the implementation of the underground storage tank  
33 regulatory program, including a report on state and local tank fees.  
34 This report shall detail the number of corrective actions taken with  
35 regard to leaking underground storage tanks and their associated costs,  
36 including anticipated future cleanup costs. The report may be combined  
37 with other department reporting requirements to increase efficiency.

1        NEW SECTION.    **Sec. 7.** A new section is added to chapter 43.131 RCW  
2 to read as follows:

3        The underground storage tank program shall be terminated on July 1,  
4 2009, as provided in section 8 of this act.

5        NEW SECTION.    **Sec. 8.** A new section is added to chapter 43.131 RCW  
6 to read as follows:

7        The following acts or parts of acts, as now existing or hereafter  
8 amended, are each repealed, effective July 1, 2010:

9        (1) RCW 90.76.005 and 1989 c 346 s 1;

10       (2) RCW 90.76.010 and 1989 c 346 s 2;

11       (3) RCW 90.76.020 and 1998 c . . . s 1 (section 1 of this act) &  
12 1989 c 346 s 3;

13       (4) RCW 90.76.040 and 1998 c . . . s 2 (section 2 of this act) &  
14 1989 c 346 s 5;

15       (5) RCW 90.76.050 and 1998 c . . . s 3 (section 3 of this act) &  
16 1989 c 346 s 6;

17       (6) RCW 90.76.060 and 1998 c . . . s 4 (section 4 of this act) &  
18 1989 c 346 s 7;

19       (7) RCW 90.76.070 and 1989 c 346 s 8;

20       (8) RCW 90.76.080 and 1995 c 403 s 639 & 1989 c 346 s 9;

21       (9) RCW 90.76.090 and 1998 c . . . s 5 (section 5 of this act) &  
22 1989 c 346 s 10;

23       (10) RCW 90.76.100 and 1991 sp.s. c 13 s 72 & 1989 c 346 s 11;

24       (11) RCW 90.76.110 and 1991 c 83 s 1 & 1989 c 346 s 12;

25       (12) RCW 90.76.120 and 1998 c . . . s 6 (section 6 of this act) &  
26 1989 c 346 s 13;

27       (13) RCW 90.76.900 and 1989 c 346 s 15;

28       (14) RCW 90.76.901 and 1989 c 346 s 14; and

29       (15) RCW 90.76.902 and 1989 c 346 s 18.

30       NEW SECTION.    **Sec. 9.** The following acts or parts of acts are each  
31 repealed:

32       (1) RCW 90.76.030 and 1989 c 346 s 4; and

33       (2) RCW 90.76.903 and 1989 c 346 s 17.

1        NEW SECTION.   **Sec. 10.**   The department of ecology may adopt rules  
2   to implement this act.

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