

HOUSE BILL REPORT

HB 2478

As Reported by House Committee On:
Financial Institutions & Insurance
Appropriations

Title: An act relating to underground petroleum storage tanks.

Brief Description: Concerning underground petroleum storage tanks.

Sponsors: Representatives Cooper, Sump, Hinkle and Chase.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/30/04, 2/4/04 [DPS];
Appropriations: 2/9/04 [DPS(FII)].

Brief Summary of Substitute Bill

- Increases the fee paid by heating oil dealers from six-tenths of one cent per gallon of heating oil to one and two-tenths cents per gallon of heating oil to cover rising claim costs.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, G., Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and Simpson, D..

Staff: Carrie Tellefson (786-7127).

Background:

Pollution Liability Insurance Agency

The Pollution Liability Insurance Agency (PLIA) mission is to make pollution liability insurance available and affordable to the owners and operators of regulated petroleum underground storage tanks (USTs) and heating oil tanks by offering reinsurance services to the insurance industry.

Commercial Underground Storage Tank Reinsurance Program

Underground storage tank (UST) owners are required to be financially responsible for cleanup in the event of an accidental release of petroleum. There are a variety of ways to demonstrate

financial responsibility. Most small businesses and local government entities purchase pollution liability insurance to satisfy this requirement.

The PLIA makes pollution liability insurance available to the owners of USTs by serving as a reinsurer of insurance policies. As the reinsurer, PLIA assumes part of the risk for each petroleum release. For example, on a \$1 million insurance policy, PLIA is responsible for settlements over \$75,000. This assumed risk allows the insurance companies to reduce insurance premiums. The program has spent over \$15.2 million on cleanups at 290 sites.

Heating Oil Pollution Liability Insurance Program

Contamination resulting from a heating oil tank leak or spill must be addressed according to the state's cleanup regulations. Since 1996, PLIA has provided coverage for owners of active heating oil tanks through the Heating Oil Pollution Liability Insurance Program. Tank owners register with PLIA to receive up to \$60,000 in pollution liability coverage. Some insurance companies that write homeowners coverage are now requiring homeowners to have PLIA insurance. Since the program started, PLIA has received over 830 claims and paid for cleanups at over 450 sites.

Program Funding

The PLIA and its programs are funded from the *Pollution Liability Trust Account* (trust account) and the Heating Oil Liability Trust Account. Neither PLIA nor any of its programs receive any State General Fund revenue. The primary source of revenue is the Petroleum Products Tax (PPT), an excise tax of 0.5 percent on the wholesale value of petroleum on the first introduction into the state. The PPT is only collected when the unrestricted cash balance in the trust account falls below \$7.5 million. The tax is currently being collected and will continue until the unrestricted cash balance reaches \$15 million, which is expected to occur sometime in 2004. Since 1991, \$10 million in interest earned by the trust account has been transferred to the State General Fund.

Administrative and operating expenditures funded by this account are subject to allotment. No appropriation is required for other expenditures from this account.

The Heating Oil Pollution Liability Trust Account is funded by the fee paid yearly by heating oil dealers. Heating oil dealers pay a fee of six-tenths of one cent per gallon of heating oil sold. This revenue covers most of the administrative costs of the program and the required insurance policy premium. The claim costs are paid out of the Pollution Liability Trust Account. This account subsidizes the Heating Oil Pollution Liability Trust Account for purposes of claims.

Expenditures from this account are subject to the allotment process.

Financial Assistance Program for USTs

Grants were provided in the early 1990s to owners of USTs at remote and rural gas stations. Each grant was limited to \$150,000 of which no more than \$75,000 could be spent on cleanup of contamination. By 1995, USTs at 112 sites were upgraded to meet federal and state standards with cleanups conducted at 70 sites. New grants are no longer being offered; however, PLIA is responsible for the oversight of the original grant recipients.

All of the above programs and the PLIA are scheduled to sunset on June 1, 2007.

Summary of Substitute Bill:

The pollution liability insurance fee for heating oil is increased from six-tenths of one cent to one and two-tenths cents per gallon of heating oil. This fee is imposed on every heating oil dealer. The director may offer heating oil tank insurance coverage up to \$60,000, rather than a flat \$60,000. Residual amounts in the heating oil pollution liability trust account must be transferred to the pollution liability insurance program trust account at the end of every calendar year, instead of at the end of the biennium

The PLIA director must also do the following:

- Monitor agency expenses and seek to minimize costs and maximize benefits to ensure responsible financial stewardship.
- Create an advisory committee consisting of stakeholders to provide advise on all aspects of the program and its funding. The committee consists of one member from the Pacific Northwest Oil Heat Council, the Washington Oil Marketers Association, the Western States Petroleum Association, and the Department of Ecology and three members from among the owners of home heating oil tanks registered with PLIA. The committee will meet quarterly.
- Study whether it is appropriate to charge heating oil users a fee in order to supplement program funding and, if so, develop recommendations for legislation to authorize the fees.

Substitute Bill Compared to Original Bill:

The pollution liability insurance fee is set at one and two tenths cents per gallon instead of providing PLIA the authority to set the fee "up to" one and two tenths cents per gallon. The pollution liability program is continued as a "temporary" program; the word temporary is not deleted in the substitute. The language is reinstated, which requires the director of PLIA to determine the amount of reserves available to fund financial assistance programs and report this to the Department of Revenue on a quarterly basis. The members of the advisory committee are specified. The director is required to study user fees and develop recommendations for legislation, if user fees are necessary.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: In 1996 the Oil Heat program started. Cleanup has become more expensive. This bill is needed to add more revenue to the fund. The heat oil dealers wanted

the bill and worked with PLIA and others in the industry on the language. They are asking for increased taxes on themselves. Some dealers pass these taxes through to the consumers; others don't. It will not appear on the bill because it is technically a fee and not a tax. A consumer signs up for the heating oil insurance, but they don't have to pay anything for it. The consumer signs up with the person that delivers their heating oil.

Home heating oil came into play after the Model Toxics Control Act was passed. Every homeowner is responsible for spills on their property. Regular homeowners insurance may or may not cover oil spills. Costs have escalated dramatically recently. Homeowners can pay \$3,000 to \$17,000 to cover the cost of a cleanup. The program works by charging a fee to heating oil dealers who pay into the fund. If the home heating oil program is not fully funded, it takes funds from the Pollution Liability Trust. The increase will actually not cover their costs completely.

It allows the heating oil program to be better funded. Last year there was an effort to raid the PLIA account and put that money into the general fund. They worked to ensure that did not happen. The PLIA is a dedicated account that has some trusts aspects.

This helps homeowners. There are no other costs to homeowners besides paying for the oil they buy. The reinsurance is up to \$60,000 and there has never been a heating oil spill that cost that much to clean up.

In order for a homeowner to participate, they need to have an active heating oil tank. It may cover the removal of a tank if a customer has a spill and wants to remove the tank and switch to a different form of energy. The average consumer uses 1,000 to 1,500 gallons of heating oil. If they were paying the fee instead of getting the insurance for free, it would only cost them about \$6 under the current language and it would go up to about \$13 under the increase. Tanks are routinely placed in the ground. There are not very many above-ground tanks. Some communities don't allow them for aesthetic reasons. In some cases fire marshals do not like above ground tanks.

Testimony Against: None.

Persons Testifying: (In support) Representative Cooper, prime sponsor; Roger Dovel, Pollution Liability Insurance Agency; Pat Dunn, Pacific Northwest Oil Heat Council; Charlie Brown, Washington Oil Marketers Association; and Greg Hanon, Western States Petroleum Association.

(Informational) Dave Smith, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Financial Institutions & Insurance be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson,

Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

Staff: Susan Howson (786-7142).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Financial Institutions & Insurance:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill represents a consensus proposal. It is designed to address a funding shortfall in the Pollution Liability Insurance Agency for the home heating oil tank program. The increased fee will generate additional money for the program which is currently subsidized by the Pollution Liability Trust.

Testimony Against: None.

Persons Testifying: Greg Hanon, Western States Petroleum Association; and Charlie Brown, Washington Oil Marketers Association.

Persons Signed In To Testify But Not Testifying: None.