

HOUSE BILL REPORT

SSB 6286

As Passed House:

March 3, 2004

Title: An act relating to heating oil tank liability protection.

Brief Description: Modifying provisions of the heating oil pollution liability protection act.

Sponsors: By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/24/04 [DP].

Floor Activity:

Passed House: 3/3/04, 95-0.

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.
- Excludes liquifiable gasses from the petroleum products tax that funds the Pollution Liability Insurance Agency (PLIA) and its programs.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 11 members: Representatives Schual-Berke, Chair; G. Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and D. Simpson.

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.

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

Summary of 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.

Liquifiable gasses are no longer considered "petroleum products" for purposes of determining the petroleum products tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed except section 3, relating to the increased fee paid by heating oil dealers, which takes effect July 1, 2004.

Testimony For: The stakeholders have worked hard to come up with a good bill. This bill brings the issue into balance.

Testimony Against: None.

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

Persons Signed In To Testify But Not Testifying: None.