
**Natural Resources, Ecology &
Parks Committee**

HB 1820

Brief Description: Limiting liability under the model toxics control act.

Sponsors: Representative Kagi.

Brief Summary of Bill

- Expands the exemptions for liability under the Model Toxics Control Act to include the former owners of a residential property that was insured under Pollution Liability Insurance Agency at the time ownership in the property was transferred.

Hearing Date: 2/24/05

Staff: Jason Callahan (786-7117).

Background:

Model Toxics Control Act

The Model Toxics Control Act (MTCA) outlines the liabilities and responsibilities of the owner or operator of a site that has been contaminated by a hazardous substance or substances. The cleaning of these contaminated sites, known as facilities, can be the responsibility of a broad range of individuals. They include the current owner or operator of the facility, any person who owned or operated the facility when the hazardous substances were disposed, and any person who owned or possessed a hazardous substance that was disposed at the facility. All entities identified as being liable for cleaning a facility are jointly and severally liable.

There are some conditions under which an entity that would otherwise be liable for cleaning the property under MTCA are exempt. These include situations where the release of hazardous materials was caused by an act of God or by an omission by a third party, past owners who had no reason to know that the hazardous substances were disposed on the property, or owners who lawfully used pesticides, fertilizers, or other chemicals for domestic purposes.

Pollution Liability Insurance Agency

The Pollution Liability Insurance Agency (PLIA) is a state-operated program designed to make pollution liability insurance available and affordable to the owners and operators of heating oil tanks and underground storage tanks. This is accomplished by offering reinsurance services to the insurance industry.

The PLIA program covers both heating oil tanks and underground storage tanks. A heating oil tank is a tank for space heating of a home or working space. By contrast, an underground storage tank is a commercial tank or a combination of tanks used to store an accumulation of petroleum.

The PLIA and its programs do not receive state general funds. Rather, funding comes from two sources. These sources are a pollution liability fee imposed on dealers making sales of heating oil to a homeowner, and an excise tax on the wholesale value of petroleum. An owner of a heating oil tank must take positive action to elect coverage. However, the sales of heating oil to customers not electing coverage are assessed the pollution liability fee regardless if the homeowner has elected coverage.

The PLIA program is scheduled to expire on June 1, 2007.

Summary of Bill:

The exemptions for liability under MTCA are expanded to include the former owners of a residential property that was insured under PLIA at the time ownership in the property was transferred. The liability exemption only applies to releases from underground petroleum tanks located on the residential property.

Appropriation: None.

Fiscal Note: Not requested.

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