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HOUSE BILL 1821

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State of Washington

59th Legislature

2005 Regular Session

By Representative Kagi

Read first time 02/07/2005. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to the nature of coverage under the heating oil  
2 pollution liability protection act; amending RCW 70.149.050 and  
3 70.149.080; and providing an expiration date.

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

5 **Sec. 1.** RCW 70.149.050 and 1995 c 20 s 5 are each amended to read  
6 as follows:

7 (1) In selecting an insurer to provide pollution liability  
8 insurance coverage to owners and operators of heating oil tanks used  
9 for space heating, the director shall evaluate bids based upon criteria  
10 established by the director that shall include:

11 (a) The insurer's ability to underwrite pollution liability  
12 insurance;

13 (b) The insurer's ability to settle pollution liability claims  
14 quickly and efficiently;

15 (c) The insurer's estimate of underwriting and claims adjustment  
16 expenses;

17 (d) The insurer's estimate of premium rates for providing coverage;

18 (e) The insurer's ability to manage and invest premiums; and

1 (f) The insurer's ability to provide risk management guidance to  
2 insureds.

3 (2) The director shall select the bidder most qualified to provide  
4 insurance consistent with this chapter and need not select the bidder  
5 submitting the least expensive bid. The director may consider bids by  
6 groups of insurers and management companies who propose to act in  
7 concert in providing coverage and who otherwise meet the requirements  
8 of this chapter.

9 (3) Owners and operators of heating oil tanks, or sites containing  
10 heating oil tanks where a preexisting release has been identified or  
11 where the owner or operator knows of a preexisting release are  
12 (~~eligible for coverage~~) covered under the program subject to the  
13 following conditions:

14 (a) The owner or operator must have a plan for proceeding with  
15 corrective action; and

16 (b) If the owner or operator files a claim with the insurer, the  
17 owner or operator has the burden of proving that the claim is not  
18 related to a preexisting release until the owner or operator  
19 demonstrates to the satisfaction of the director that corrective action  
20 has been completed.

21 **Sec. 2.** RCW 70.149.080 and 2004 c 203 s 3 are each amended to read  
22 as follows:

23 (1) A pollution liability insurance fee of one and two-tenths cents  
24 per gallon of heating oil purchased within the state shall be imposed  
25 on every special fuel dealer, as the term is defined in chapter 82.38  
26 RCW, making sales of heating oil to a user or consumer.

27 (2) The pollution liability insurance fee shall be remitted by the  
28 special fuel dealer to the department of licensing.

29 (3) The fee proceeds shall be used for the specific regulatory  
30 purposes of this chapter.

31 (4) The fee imposed by this section shall not apply to heating oil  
32 exported or sold for export from the state.

33 (5) Subject to the requirements of RCW 70.149.050(3), an owner or  
34 operator who is a customer of a special fuels dealer required to pay  
35 the pollution liability insurance fee under this section is covered by  
36 the liability insurance provided by this chapter.

1        NEW SECTION.   **Sec. 3.**   Sections 1 and 2 of this act expire June 1,  
2   2007.

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