

# HOUSE BILL REPORT

## HB 1789

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**As Passed House:**

March 7, 2007

**Title:** An act relating to minimizing the environmental threat caused by leaking home heating oil tanks.

**Brief Description:** Minimizing threats to the environment caused by leaking home heating oil tanks.

**Sponsors:** By Representatives Kagi, Priest, Hunter, Jarrett, Dunshee, Orcutt, Linville, Strow, Dickerson, McCoy, B. Sullivan, Lantz, Hunt, Chase, Rodne and Schual-Berke.

**Brief History:**

**Committee Activity:**

Insurance, Financial Services & Consumer Protection: 2/15/07 [DP].

**Floor Activity:**

Passed House: 3/7/07, 94-0.

**Brief Summary of Bill**

- Requires the Pollution Liability Insurance Agency (PLIA) to identify design criteria for heating oil tanks that provide superior protection against future leaks than standard steel tank designs.
- Requires the PLIA to reimburse an owner or operator the difference in price between a standard steel heating tank and a tank that meets the PLIA design criteria. Reimbursement is only required if there has been an action to trigger coverage for an owner or operator that is participating in the PLIA program.

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**HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION**

**Majority Report:** Do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos and Simpson.

**Staff:** Jon Hedegard (786-7127).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

The Washington Pollution Liability Insurance Agency (PLIA) was created in 1989 to make pollution liability insurance available and affordable to the owners and operators of regulated underground petroleum storage tanks. An underground storage tank (UST) is a commercial tank or a combination of tanks used to store an accumulation of petroleum. In 1991, the PLIA was directed to provide grants to owners of USTs at remote and rural gas stations to upgrade their tanks. In 2005, the Legislature directed the PLIA to provide an additional \$1 million for these grants.

In 1995, the PLIA's duties were expanded to include assisting owners and operators of heating oil tanks by offering reinsurance services to the insurance industry. A heating oil tank is a tank for space heating of a home or working space. The PLIA offers this program to provide up to \$60,000 of insurance coverage for cleanup of contamination from active heating oil tanks that are registered in the program prior to the contamination occurring. There is no cost to the homeowner for this coverage.

The PLIA and its programs do not receive state general funds. Funding comes from two sources: (1) a pollution liability fee imposed on dealers making sales of heating oil to a homeowner or a consumer which is deposited into the Heating Oil Pollution Liability Trust Account (HOPLT Account); and (2) an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Insurance Program Trust Account (PLT Account). The excise tax includes a "trigger" mechanism based on the amount of funds in the PLT Account. The tax will only be imposed for a succeeding calendar quarter if the tax was levied the prior quarter and the account balance is less than \$15 million. Most recently, the tax was effective from July 1, 2003, through June 30, 2004.

In 2006, the Legislature extended expiration dates associated with the PLIA to July 1, 2013.

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**Summary of Bill:**

The PLIA must identify design criteria for heating oil tanks that provide superior protection than standard steel tank designs against future leaks. The tank designs identified must include fiberglass construction or provide at least an equivalent level of protection against leaks as a standard fiberglass design.

The PLIA must reimburse an owner or operator the difference in price between a standard steel heating tank and the new tank if the owner or operator:

- is participating in the PLIA program;
- experienced an occurrence or remedial action; and
- chose, or was required to replace an existing tank at the time of the action with a new tank that satisfies the PLIA design standards.

Any new heating oil tank reimbursement provided under this section must be funded within the statutory \$60,000 per occurrence coverage limit.

The provisions are prospective and apply only to individuals who file a claim with the PLIA on or after the effective date of the act.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) I have been involved in PLIA issues since a constituent brought a concern several years ago. Currently, we see steel tanks corrode and leak and we see homeowners replace those tanks with other steel tanks. We should try to avoid using steel tanks that are susceptible to leaks. It is more efficient and better for the environment if we use fiberglass tanks. The fiberglass tanks are more expensive which is why the PLIA program is involved. Fiberglass tanks are not perfect but they can last considerably longer, which means the PLIA isn't paying more for multiple occurrences for one homeowner.

Replacing the steel tanks with better, more secure tanks is better for homeowners and the environment. It also makes fiscal sense. In some areas, a steel tank could corrode in just a few years. We have worked with legislators and the PLIA on these concepts for several years. There should be a better option for homeowners. The commercial USTs had to be replaced under federal law. This is not a good model for the homeowners' part of the PLIA because of the cost. The bill provides an incentive for a new tank and limits potential future liability for the PLIA. The cost is a part of the cleanup and the new tank helps avoid a future occurrence. The staff of the PLIA has been very helpful in working on these issues.

(With concerns) There are no concerns with this bill. The PLIA is a very successful program. The PLIA communicates well and works well with all of the stakeholders. This committee seems to have asserted primary jurisdiction over the PLIA; we are happy to have one committee that we can work with and share our issues and concerns. It should be noted that there are two separate funds that the PLIA oversees. The commercial fund can pay into the homeowners' fund when the homeowners' fund runs out of money. On this bill, we are not concerned. It may become a concern for us on issues in the future so we wanted to note that possibility as we go forward on various issues concerning the PLIA.

(Opposed) None.

**Persons Testifying:** (In support) Representative Ruth Kagi, prime sponsor; Tom Allen, ACME Fuel Company; and Charlie Brown, Washington Oil Marketers Association.

(With concerns) Greg Hanon, Western States Petroleum Association.

**Persons Signed In To Testify But Not Testifying:** None.