

SB 6159 - H COMM AMD  
By Committee on Environment

ADOPTED 02/28/2018

1 On page 2, after line 11, insert the following:

2 "Sec. 3. RCW 70.149.040 and 2017 c 23 s 4 are each amended to  
3 read as follows:

4 The director shall:

5 (1) Design a program, consistent with RCW 70.149.120, for  
6 providing pollution liability insurance for heating oil tanks that  
7 provides up to sixty thousand dollars per occurrence coverage and  
8 aggregate limits, not to exceed fifteen million dollars each calendar  
9 year, and protects the state of Washington from unwanted or  
10 unanticipated liability for accidental release claims;

11 (2) Administer, implement, and enforce the provisions of this  
12 chapter. To assist in administration of the program, the director is  
13 authorized to appoint up to two employees who are exempt from the  
14 civil service law, chapter 41.06 RCW, and who shall serve at the  
15 pleasure of the director;

16 (3) Administer the heating oil pollution liability trust account,  
17 as established under RCW 70.149.070;

18 (4) Employ and discharge, at his or her discretion, agents,  
19 attorneys, consultants, companies, organizations, and employees as  
20 deemed necessary, and to prescribe their duties and powers, and fix  
21 their compensation;

22 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out  
23 the provisions of this chapter;

24 (6) Design and from time to time revise a reinsurance contract  
25 providing coverage to an insurer or insurers meeting the requirements  
26 of this chapter. The director is authorized to provide reinsurance  
27 through the pollution liability insurance program trust account;

28 (7) Solicit bids from insurers and select an insurer to provide  
29 pollution liability insurance for third-party bodily injury and  
30 property damage, and corrective action to owners and operators of  
31 heating oil tanks;

1 (8) Register, and design a means of accounting for, operating  
2 heating oil tanks;

3 (9) Implement a program to provide advice and technical  
4 assistance on the administrative and technical requirements of this  
5 chapter and chapter 70.105D RCW to persons who are conducting or  
6 otherwise interested in independent remedial actions at facilities  
7 where there is a suspected or confirmed release from the following  
8 petroleum storage tank systems: A heating oil tank; a decommissioned  
9 heating oil tank; an abandoned heating oil tank; or a petroleum  
10 storage tank system identified by the department of ecology based on  
11 the relative risk posed by the release to human health and the  
12 environment, as determined under chapter 70.105D RCW, or other  
13 factors identified by the department of ecology.

14 (a) Such advice or assistance is advisory only, and is not  
15 binding on the pollution liability insurance agency or the department  
16 of ecology. As part of this advice and assistance, the pollution  
17 liability insurance agency may provide written opinions on whether  
18 independent remedial actions or proposals for these actions meet the  
19 substantive requirements of chapter 70.105D RCW, or whether the  
20 pollution liability insurance agency believes further remedial action  
21 is necessary at the facility. As part of this advice and assistance,  
22 the pollution liability insurance agency may also observe independent  
23 remedial actions.

24 (b) The agency is authorized to collect, from persons requesting  
25 advice and assistance, the costs incurred by the agency in providing  
26 such advice and assistance. The costs may include travel costs and  
27 expenses associated with review of reports and preparation of written  
28 opinions and conclusions. Funds from cost reimbursement must be  
29 deposited in the heating oil pollution liability trust account.

30 (c) The state of Washington, the pollution liability insurance  
31 agency, and its officers and employees are immune from all liability,  
32 and no cause of action arises from any act or omission in providing,  
33 or failing to provide, such advice, opinion, conclusion, or  
34 assistance;

35 (10) Establish a public information program to provide  
36 information regarding liability, technical, and environmental  
37 requirements associated with active and abandoned heating oil tanks;

38 (11) Monitor agency expenditures and seek to minimize costs and  
39 maximize benefits to ensure responsible financial stewardship;

1 (12) Study if appropriate user fees to supplement program funding  
2 are necessary and develop recommendations for legislation to  
3 authorize such fees;

4 (13) Establish requirements, including deadlines not to exceed  
5 ninety days, for reporting to the pollution liability insurance  
6 agency a suspected or confirmed release from a heating oil tank,  
7 including a decommissioned or abandoned heating oil tank, that may  
8 pose a threat to human health or the environment by the owner or  
9 operator of the heating oil tank or the owner of the property where  
10 the release occurred;

11 (14) Within ninety days of receiving information and having a  
12 reasonable basis to believe that there may be a release from a  
13 heating oil tank, including decommissioned or abandoned heating oil  
14 tanks, that may pose a threat to human health or the environment,  
15 perform an initial investigation to determine at a minimum whether  
16 such a release has occurred and whether further remedial action is  
17 necessary under chapter 70.105D RCW. The initial investigation may  
18 include, but is not limited to, inspecting, sampling, or testing. The  
19 director may retain contractors to perform an initial investigation  
20 on the agency's behalf;

21 (15) For any written opinion issued under subsection (9) of this  
22 section requiring an environmental covenant as part of the remedial  
23 action, consult with, and seek comment from, a city or county  
24 department with land use planning authority for real property subject  
25 to the environmental covenant prior to the property owner recording  
26 the environmental covenant; and

27 (16) For any property where an environmental covenant has been  
28 established as part of the remedial action approved under subsection  
29 (9) of this section, periodically review the environmental covenant  
30 for effectiveness. The director shall perform a review at least once  
31 every five years after an environmental covenant is recorded."

32 Correct the title.

EFFECT: Establishes an aggregate limit of \$15 million per  
calendar year for pollution liability direct insurance provided by  
the Pollution Liability Insurance Agency.

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