

# HOUSE BILL REPORT

## SB 6159

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### As Reported by House Committee On:

Environment  
Appropriations

**Title:** An act relating to the reauthorization of the underground storage tank program.

**Brief Description:** Concerning the reauthorization of the underground storage tank program.

**Sponsors:** Senators Takko, Honeyford, Fain and Chase; by request of Department of Ecology.

### Brief History:

#### Committee Activity:

Environment: 2/19/18, 2/20/18 [DPA];

Appropriations: 2/24/18, 2/26/18 [DPA(ENVI)].

#### Brief Summary of Bill (As Amended by Committee)

- Extends the expiration date for the state Underground Storage Tank program from 2019 to 2029.
- 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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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

**Staff:** Robert Hatfield (786-7117).

#### Background:

Underground Storage Tank Systems.

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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.*

An underground storage tank system (UST) is a tank and any connected underground piping that has at least 10 percent of its combined volume underground. Regulations apply to USTs that store either petroleum or certain hazardous substances. Certain USTs are exempt from state and federal classification as USTs, such as tanks of 110 gallons or less, and farm and residential tanks of 1,100 gallons or less that hold motor fuel used for noncommercial purposes.

#### Federal Underground Storage Tank Regulation.

Federal government regulation of USTs began in 1984 through an amendment to the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) is the federal agency charged with carrying out the federal UST program. The EPA's UST program requires, among other things, registration of UST owners, leak detection and leak prevention, demonstration of financial responsibility, and records maintenance.

#### State Underground Storage Tank Regulation.

Washington has applied for and obtained approval from the EPA to operate its own state-level regulation program. As a result, state law, not federal law, applies to regulated USTs, and the Department of Ecology (Ecology), not the EPA, inspects and enforces compliance with the law.

Under the state UST program, Ecology is responsible for regulating and inspecting USTs that store petroleum and other hazardous substances. The purpose of Ecology's UST program is to reduce the number and severity of releases of petroleum and other hazardous substances, and to maintain compliance with the requirements for federal approval of the program.

Ecology regulates more than 9,000 USTs at more than 3,300 facilities, including gas stations, other commercial and industrial facilities, and government-owned facilities. Ecology conducts inspections at about 1,200 facilities each year and provides technical assistance to owners and operators. Each facility must be inspected at least once every three years.

Washington's UST program is subject to sunset review and reauthorization under the Sunset Act. The program was originally authorized in 1989 and has been extended twice under the Sunset Act. The program is currently set to terminate on July 1, 2019.

#### Pollution Liability Insurance Agency.

The Pollution Liability Insurance Agency (PLIA) provides a government funding model to help owners and operators meet their financial responsibility and environmental cleanup requirements for underground storage tanks.

The PLIA provides multiple services related to heating oil tanks and other petroleum storage tank systems, including direct insurance coverage of up to \$60,000 per occurrence for cleanup of contamination from heating oil tanks. The direct insurance program is funded by heating oil dealer fees and by the petroleum products tax. Direct insurance coverage is provided by the PLIA out of the Pollution Liability Insurance Program Trust Account, with reinsurance coverage provided by a private insurer.

**Summary of Amended Bill:**

The expiration for the state UST program is extended to July 1, 2029.

An annual aggregate limit of pollution liability direct insurance coverage provided by the PLIA for cleanup of contamination from heating oil tanks is established at \$15 million per calendar year.

**Amended Bill Compared to Original Bill:**

A section is added to establish an aggregate limit of \$15 million per calendar year on the pollution liability direct insurance coverage provided by the PLIA for cleanup of contamination from heating oil tanks.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The UST program is one of Ecology's largest pollution prevention programs. It helps ensure the gas in USTs gets into people's cars, not the environment. There are approximately 9,000 tanks at approximately 3,000 facilities within the UST program, primarily at gas stations. Accidental releases from USTs have dropped from several hundred per year to approximately 50 per year as a result of the program. The success of the PLIA is predicated on a strong regulatory network. In order to have the confidence of the insurance market, there needs to be a strong regulatory matrix. The Ecology has done an excellent job of conducting inspections.

(Opposed) None.

**Persons Testifying:** Michael Feldcamp, Department of Ecology; Russell Olsen, Washington Pollution Liability Insurance Agency; and Dave Ducharme, Washington Oil Marketers Association.

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

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** Do pass as amended by Committee on Environment. Signed by 33 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Graves,

Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

**Staff:** Dan Jones (786-7118).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Both the extension of the Underground Storage Tank (UST) program and the cap on payouts from heating oil tank insurance are good policies.

(Opposed) None.

(Other) Extending the UST program would continue to prevent releases from underground storage tanks, which avoids cleanups from contaminated sites in the future. Creating a cap on payouts from heating oil tank insurance would protect the ability of the program to continue in the future and ensure there is not a run on claims.

**Persons Testifying:** (In support) Dave Ducharme, Washington Oil Marketers Association.

(Other) Michael Feldcamp, Department of Ecology; and Russell Olsen, Washington State Pollution Liability Insurance Agency.

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