



Rep. Avery Bourne

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LRB100 07000 MJP 23839 a

1 AMENDMENT TO HOUSE BILL 513

2 AMENDMENT NO. _____. Amend House Bill 513 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Gasoline Storage Act is amended by changing
5 Section 2 as follows:

6 (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

7 Sec. 2. Jurisdiction; regulation of tanks.

8 (1) (a) Except as otherwise provided in this Act, the
9 jurisdiction of the Office of the State Fire Marshal under this
10 Act shall be concurrent with that of municipalities and other
11 political subdivisions. The Office of the State Fire Marshal
12 has power to promulgate, pursuant to the Illinois
13 Administrative Procedure Act, reasonable rules and regulations
14 governing the keeping, storage, transportation, sale or use of
15 gasoline and volatile oils. Nothing in this Act shall relieve
16 any person, corporation, or other entity from complying with

1 any zoning ordinance of a municipality or home rule unit
2 enacted pursuant to Section 11-13-1 of the Illinois Municipal
3 Code or any ordinance enacted pursuant to Section 11-8-4 of the
4 Illinois Municipal Code.

5 (b) The rulemaking power shall include the power to
6 promulgate rules providing for the issuance and revocation of
7 permits allowing the self service dispensing of motor fuels as
8 such term is defined in the Motor Fuel Tax Law in retail
9 service stations or any other place of business where motor
10 fuels are dispensed into the fuel tanks of motor vehicles,
11 internal combustion engines or portable containers. Such rules
12 shall specify the requirements that must be met both prior and
13 subsequent to the issuance of such permits in order to insure
14 the safety and welfare of the general public. The operation of
15 such service stations without a permit shall be unlawful. The
16 Office of the State Fire Marshal shall revoke such permit if
17 the self service operation of such a service station is found
18 to pose a significant risk to the safety and welfare of the
19 general public.

20 (c) However, except in any county with a population of
21 1,000,000 or more, the Office of the State Fire Marshal shall
22 not have the authority to prohibit the operation of a service
23 station solely on the basis that it is an unattended
24 self-service station which utilizes key or card operated
25 self-service motor fuel dispensing devices. Nothing in this
26 paragraph shall prohibit the Office of the State Fire Marshal

1 from adopting reasonable rules and regulations governing the
2 safety of self-service motor fuel dispensing devices.

3 (d) The State Fire Marshal shall not prohibit the
4 dispensing or delivery of flammable or combustible motor
5 vehicle fuels directly into the fuel tanks of vehicles from
6 tank trucks, tank wagons, or other portable tanks. The State
7 Fire Marshal shall adopt rules (i) for the issuance of permits
8 for the dispensing of motor vehicle fuels in the manner
9 described in this paragraph (d), (ii) that establish fees for
10 permits and inspections, and provide for those fees to be
11 deposited into the Fire Prevention Fund, (iii) that require the
12 dispensing of motor fuel in the manner described in this
13 paragraph (d) to meet conditions consistent with nationally
14 recognized standards such as those of the National Fire
15 Protection Association, and (iv) that restrict the dispensing
16 of motor vehicle fuels in the manner described in this
17 paragraph (d) to the following:

18 (A) agriculture sites for agricultural purposes; ~~and~~

19 (B) construction sites for refueling construction
20 equipment used at the construction site; ~~and~~

21 (C) sites used for the parking, operation, or
22 maintenance of a commercial vehicle fleet, but only if the
23 site is located in a county with 3,000,000 or more
24 inhabitants or a county contiguous to a county with
25 3,000,000 or more inhabitants and the site is not normally
26 accessible to the public; ~~and~~

1 (D) sites used for the refueling of police, fire, or
2 emergency medical services vehicles or other vehicles that
3 are owned, leased, or operated by (or operated under
4 contract with) the State, a unit of local government, or a
5 school district, or any agency of the State and that are
6 not normally accessible to the public; and -

7 (E) any of the following sites permitted under the
8 Environmental Protection Act, provided that the only
9 refueling at the sites is limited to off-road vehicles and
10 equipment used at and for the operation of the sites:

11 (i) waste disposal sites;

12 (ii) sanitary landfills; and

13 (iii) municipal solid waste landfill units.

14 (2) (a) The Office of the State Fire Marshal shall adopt
15 rules and regulations regarding underground storage tanks and
16 associated piping and no municipality or other political
17 subdivision shall adopt or enforce any ordinances or
18 regulations regarding such underground tanks and piping other
19 than those which are identical to the rules and regulations of
20 the Office of the State Fire Marshal. It is declared to be the
21 law of this State, pursuant to paragraphs (h) and (i) of
22 Section 6 of Article VII of the Illinois Constitution, that the
23 establishment and enforcement of standards regarding
24 underground storage tanks and associated piping within the
25 jurisdiction of the Office of the State Fire Marshal is an
26 exclusive State function which may not be exercised

1 concurrently by a home rule unit except as expressly permitted
2 in this Act.

3 (b) The Office of the State Fire Marshal may enter into
4 written contracts with municipalities of over 500,000 in
5 population to enforce the rules and regulations adopted under
6 this subsection.

7 (3) (a) The Office of the State Fire Marshal shall have
8 authority over underground storage tanks which contain, have
9 contained, or are designed to contain petroleum, hazardous
10 substances and regulated substances as those terms are used in
11 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
12 (P.L. 98-616), as amended by the Superfund Amendments and
13 Reauthorization Act of 1986 (P.L. 99-499). The Office shall
14 have the power with regard to underground storage tanks to
15 require any person who tests, installs, repairs, replaces,
16 relines, or removes any underground storage tank system
17 containing, formerly containing, or which is designed to
18 contain petroleum or other regulated substances, to obtain a
19 permit to install, repair, replace, reline, or remove the
20 particular tank system, and to pay a fee set by the Office for
21 a permit to install, repair, replace, reline, upgrade, test, or
22 remove any portion of an underground storage tank system. All
23 persons who do repairs above grade level for themselves need
24 not pay a fee or be certified. All fees received by the Office
25 from certification and permits shall be deposited in the Fire
26 Prevention Fund for the exclusive use of the Office in

1 administering the Underground Storage Tank program.

2 (b) (i) Within 120 days after the promulgation of
3 regulations or amendments thereto by the Administrator of the
4 United States Environmental Protection Agency to implement
5 Section 9003 of Subtitle I of the Hazardous and Solid Waste
6 Amendments of 1984 (P.L. 98-616) of the Resource Conservation
7 and Recovery Act of 1976 (P.L. 94-580), as amended, the Office
8 of the State Fire Marshal shall adopt regulations or amendments
9 thereto which are identical in substance. The rulemaking
10 provisions of Section 5-35 of the Illinois Administrative
11 Procedure Act shall not apply to regulations or amendments
12 thereto adopted pursuant to this subparagraph (i).

13 (ii) The Office of the State Fire Marshal may adopt
14 additional regulations relating to an underground storage tank
15 program that are not inconsistent with and at least as
16 stringent as Section 9003 of Subtitle I of the Hazardous and
17 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource
18 Conservation and Recovery Act of 1976 (P.L. 94-580), as
19 amended, or regulations adopted thereunder. Except as provided
20 otherwise in subparagraph (i) of this paragraph (b), the Office
21 of the State Fire Marshal shall not adopt regulations relating
22 to corrective action at underground storage tanks. Regulations
23 adopted pursuant to this subsection shall be adopted in
24 accordance with the procedures for rulemaking in Section 5-35
25 of the Illinois Administrative Procedure Act.

26 (c) The Office of the State Fire Marshal shall require any

1 person, corporation or other entity who tests an underground
2 tank or its piping or cathodic protection for another to report
3 the results of such test to the Office.

4 (d) In accordance with constitutional limitations, the
5 Office shall have authority to enter at all reasonable times
6 upon any private or public property for the purpose of:

7 (i) Inspecting and investigating to ascertain possible
8 violations of this Act, of regulations thereunder or of
9 permits or terms or conditions thereof; or

10 (ii) In accordance with the provisions of this Act,
11 taking whatever emergency action, that is necessary or
12 appropriate, to assure that the public health or safety is
13 not threatened whenever there is a release or a substantial
14 threat of a release of petroleum or a regulated substance
15 from an underground storage tank.

16 (e) The Office of the State Fire Marshal may issue an
17 Administrative Order to any person who it reasonably believes
18 has violated the rules and regulations governing underground
19 storage tanks, including the installation, repair, leak
20 detection, cathodic protection tank testing, removal or
21 release notification. Such an order shall be served by
22 registered or certified mail or in person. Any person served
23 with such an order may appeal such order by submitting in
24 writing any such appeal to the Office within 10 days of the
25 date of receipt of such order. The Office shall conduct an
26 administrative hearing governed by the Illinois Administrative

1 Procedure Act and enter an order to sustain, modify or revoke
2 such order. Any appeal from such order shall be to the circuit
3 court of the county in which the violation took place and shall
4 be governed by the Administrative Review Law.

5 (f) The Office of the State Fire Marshal shall not require
6 the removal of an underground tank system taken out of
7 operation before January 2, 1974, except in the case in which
8 the office of the State Fire Marshal has determined that a
9 release from the underground tank system poses a current or
10 potential threat to human health and the environment. In that
11 case, and upon receipt of an Order from the Office of the State
12 Fire Marshal, the owner or operator of the nonoperational
13 underground tank system shall assess the excavation zone and
14 close the system in accordance with regulations promulgated by
15 the Office of the State Fire Marshal.

16 (4) (a) The Office of the State Fire Marshal shall adopt
17 rules and regulations regarding aboveground storage tanks and
18 associated piping and no municipality or other political
19 subdivision shall adopt or enforce any ordinances or
20 regulations regarding such aboveground tanks and piping other
21 than those which are identical to the rules and regulations of
22 the Office of the State Fire Marshal unless, in the interest of
23 fire safety, the Office of the State Fire Marshal delegates
24 such authority to municipalities, political subdivisions or
25 home rule units. It is declared to be the law of this State,
26 pursuant to paragraphs (h) and (i) of Section 6 of Article VII

1 of the Illinois Constitution, that the establishment of
2 standards regarding aboveground storage tanks and associated
3 piping within the jurisdiction of the Office of the State Fire
4 Marshal is an exclusive State function which may not be
5 exercised concurrently by a home rule unit except as expressly
6 permitted in this Act.

7 (b) The Office of the State Fire Marshal shall enforce its
8 rules and regulations concerning aboveground storage tanks and
9 associated piping; however, municipalities may enforce any of
10 their zoning ordinances or zoning regulations regarding
11 aboveground tanks. The Office of the State Fire Marshal may
12 issue an administrative order to any owner of an aboveground
13 storage tank and associated piping it reasonably believes to be
14 in violation of such rules and regulations to remedy or remove
15 any such violation. Such an order shall be served by registered
16 or certified mail or in person. Any person served with such an
17 order may appeal such order by submitting in writing any such
18 appeal to the Office within 10 days of the date of receipt of
19 such order. The Office shall conduct an administrative hearing
20 governed by the Illinois Administrative Procedure Act and enter
21 an order to sustain, modify or revoke such order. Any appeal
22 from such order shall be to the circuit court of the county in
23 which the violation took place and shall be governed by the
24 Administrative Review Law.

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".