

1 AN ACT concerning public safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

21 (b) The rulemaking power shall include the power to
22 promulgate rules providing for the issuance and revocation of
23 permits allowing the self service dispensing of motor fuels as

1 such term is defined in the Motor Fuel Tax Law in retail
2 service stations or any other place of business where motor
3 fuels are dispensed into the fuel tanks of motor vehicles,
4 internal combustion engines or portable containers. Such rules
5 shall specify the requirements that must be met both prior and
6 subsequent to the issuance of such permits in order to insure
7 the safety and welfare of the general public. The operation of
8 such service stations without a permit shall be unlawful. The
9 Office of the State Fire Marshal shall revoke such permit if
10 the self service operation of such a service station is found
11 to pose a significant risk to the safety and welfare of the
12 general public.

13 (c) However, except in any county with a population of
14 1,000,000 or more, the Office of the State Fire Marshal shall
15 not have the authority to prohibit the operation of a service
16 station solely on the basis that it is an unattended
17 self-service station which utilizes key or card operated
18 self-service motor fuel dispensing devices. Nothing in this
19 paragraph shall prohibit the Office of the State Fire Marshal
20 from adopting reasonable rules and regulations governing the
21 safety of self-service motor fuel dispensing devices.

22 (d) The State Fire Marshal shall not prohibit the
23 dispensing or delivery of flammable or combustible motor
24 vehicle fuels directly into the fuel tanks of vehicles from
25 tank trucks, tank wagons, or other portable tanks. The State
26 Fire Marshal shall adopt rules (i) for the issuance of permits

1 for the dispensing of motor vehicle fuels in the manner
2 described in this paragraph (d), (ii) that establish fees for
3 permits and inspections, and provide for those fees to be
4 deposited into the Fire Prevention Fund, (iii) that require the
5 dispensing of motor fuel in the manner described in this
6 paragraph (d) to meet conditions consistent with nationally
7 recognized standards such as those of the National Fire
8 Protection Association, and (iv) that restrict the dispensing
9 of motor vehicle fuels in the manner described in this
10 paragraph (d) to the following:

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

12 (B) construction sites for refueling construction
13 equipment used at the construction site; ~~and~~

14 (C) sites used for the parking, operation, or
15 maintenance of a commercial vehicle fleet, but only if the
16 site is located in a county with 3,000,000 or more
17 inhabitants or a county contiguous to a county with
18 3,000,000 or more inhabitants and the site is not normally
19 accessible to the public; ~~and~~

20 (D) sites used for the refueling of police, fire, or
21 emergency medical services vehicles or other vehicles that
22 are owned, leased, or operated by (or operated under
23 contract with) the State, a unit of local government, or a
24 school district, or any agency of the State and that are
25 not normally accessible to the public; and ~~and~~

26 (E) any of the following sites permitted under the

1 Environmental Protection Act, provided that the only
2 refueling at the sites is limited to off-road vehicles and
3 equipment used at and for the operation of the sites:

4 (i) waste disposal sites;

5 (ii) sanitary landfills; and

6 (iii) municipal solid waste landfill units.

7 (2) (a) The Office of the State Fire Marshal shall adopt
8 rules and regulations regarding underground storage tanks and
9 associated piping and no municipality or other political
10 subdivision shall adopt or enforce any ordinances or
11 regulations regarding such underground tanks and piping other
12 than those which are identical to the rules and regulations of
13 the Office of the State Fire Marshal. It is declared to be the
14 law of this State, pursuant to paragraphs (h) and (i) of
15 Section 6 of Article VII of the Illinois Constitution, that the
16 establishment and enforcement of standards regarding
17 underground storage tanks and associated piping within the
18 jurisdiction of the Office of the State Fire Marshal is an
19 exclusive State function which may not be exercised
20 concurrently by a home rule unit except as expressly permitted
21 in this Act.

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

26 (3) (a) The Office of the State Fire Marshal shall have

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

21 (b) (i) Within 120 days after the promulgation of
22 regulations or amendments thereto by the Administrator of the
23 United States Environmental Protection Agency to implement
24 Section 9003 of Subtitle I of the Hazardous and Solid Waste
25 Amendments of 1984 (P.L. 98-616) of the Resource Conservation
26 and Recovery Act of 1976 (P.L. 94-580), as amended, the Office

1 of the State Fire Marshal shall adopt regulations or amendments
2 thereto which are identical in substance. The rulemaking
3 provisions of Section 5-35 of the Illinois Administrative
4 Procedure Act shall not apply to regulations or amendments
5 thereto adopted pursuant to this subparagraph (i).

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

19 (c) The Office of the State Fire Marshal shall require any
20 person, corporation or other entity who tests an underground
21 tank or its piping or cathodic protection for another to report
22 the results of such test to the Office.

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

26 (i) Inspecting and investigating to ascertain possible

1 violations of this Act, of regulations thereunder or of
2 permits or terms or conditions thereof; or

3 (ii) In accordance with the provisions of this Act,
4 taking whatever emergency action, that is necessary or
5 appropriate, to assure that the public health or safety is
6 not threatened whenever there is a release or a substantial
7 threat of a release of petroleum or a regulated substance
8 from an underground storage tank.

9 (e) The Office of the State Fire Marshal may issue an
10 Administrative Order to any person who it reasonably believes
11 has violated the rules and regulations governing underground
12 storage tanks, including the installation, repair, leak
13 detection, cathodic protection tank testing, removal or
14 release notification. Such an order shall be served by
15 registered or certified mail or in person. Any person served
16 with such an order may appeal such order by submitting in
17 writing any such appeal to the Office within 10 days of the
18 date of receipt of such order. The Office shall conduct an
19 administrative hearing governed by the Illinois Administrative
20 Procedure Act and enter an order to sustain, modify or revoke
21 such order. Any appeal from such order shall be to the circuit
22 court of the county in which the violation took place and shall
23 be governed by the Administrative Review Law.

24 (f) The Office of the State Fire Marshal shall not require
25 the removal of an underground tank system taken out of
26 operation before January 2, 1974, except in the case in which

1 the office of the State Fire Marshal has determined that a
2 release from the underground tank system poses a current or
3 potential threat to human health and the environment. In that
4 case, and upon receipt of an Order from the Office of the State
5 Fire Marshal, the owner or operator of the nonoperational
6 underground tank system shall assess the excavation zone and
7 close the system in accordance with regulations promulgated by
8 the Office of the State Fire Marshal.

9 (4) (a) The Office of the State Fire Marshal shall adopt
10 rules and regulations regarding aboveground storage tanks and
11 associated piping and no municipality or other political
12 subdivision shall adopt or enforce any ordinances or
13 regulations regarding such aboveground tanks and piping other
14 than those which are identical to the rules and regulations of
15 the Office of the State Fire Marshal unless, in the interest of
16 fire safety, the Office of the State Fire Marshal delegates
17 such authority to municipalities, political subdivisions or
18 home rule units. It is declared to be the law of this State,
19 pursuant to paragraphs (h) and (i) of Section 6 of Article VII
20 of the Illinois Constitution, that the establishment of
21 standards regarding aboveground storage tanks and associated
22 piping within the jurisdiction of the Office of the State Fire
23 Marshal is an exclusive State function which may not be
24 exercised concurrently by a home rule unit except as expressly
25 permitted in this Act.

26 (b) The Office of the State Fire Marshal shall enforce its

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.