



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0461

Introduced 1/29/2007, by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

430 ILCS 15/4	from Ch. 127 1/2, par. 156
430 ILCS 15/4.5 new	
430 ILCS 15/6	from Ch. 127 1/2, par. 158
430 ILCS 15/6.1	from Ch. 127 1/2, par. 158.1
430 ILCS 15/7	from Ch. 127 1/2, par. 159

Amends the Gasoline Storage Act. Provides that a retailer of ethanol blended gasoline that owns an ethanol aboveground storage tank having a capacity of greater than 6,000 gallons shall register the tank with the Office of the State Fire Marshal. Provides that each retailer required to register an ethanol aboveground storage tank shall pay the Office of the State Fire Marshal a registration fee. Expands the rulemaking authority of the Office of the State Fire Marshal to regulate ethanol aboveground storage tanks.

LRB095 05173 LCT 25246 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning 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 Sections 4, 6, 6.1, and 7 and by adding Section 4.5 as follows:

6 (430 ILCS 15/4) (from Ch. 127 1/2, par. 156)

7 Sec. 4. Underground Storage Tank Program; administration.

8 (a) In cooperation with the Illinois Environmental
9 Protection Agency, the Office of the State Fire Marshal shall
10 administer the Illinois Underground Storage Tank Program in
11 accordance with this Section and Section 22.12 of the
12 Environmental Protection Act.

13 (b) (1) (A) The owner of an underground storage tank that
14 was not taken out of operation before January 2, 1974, and that
15 at any time between January 1, 1974, and September 24, 1987,
16 contained petroleum or petroleum products or hazardous
17 substances, with the exception of hazardous wastes, shall
18 register the tank with the Office of the State Fire Marshal. No
19 underground storage tank taken out of operation before January
20 2, 1974, may be registered under this Act. No underground
21 storage tank otherwise required to be registered under this
22 subparagraph (A) may be registered under this Act if that tank
23 was removed before September 24, 1987.

1 (B) The owner of a heating oil underground storage tank
2 having a capacity of greater than 1100 gallons that was not
3 taken out of operation before January 2, 1974, and that at any
4 time between January 1, 1974, and July 11, 1990, contained
5 heating oil shall register the tank with the Office of the
6 State Fire Marshal. No heating oil underground storage tank
7 taken out of operation before January 2, 1974, may be
8 registered under this Act. No heating oil underground storage
9 tank otherwise required to be registered under this
10 subparagraph (B) may be registered under this Act if that tank
11 was removed before July 11, 1990.

12 (C) The owner of a heating oil underground storage tank
13 having a capacity of 1,100 gallons or less that was not taken
14 out of operation before January 2, 1974, and that any time
15 between January 1, 1974, and September 6, 1991, contained
16 heating oil shall register the tank with the Office of State
17 Fire Marshal. No heating oil underground storage tank taken out
18 of operation before January 2, 1974, may be registered under
19 this Act. No heating oil underground storage tank otherwise
20 required to be registered under this subparagraph (C) may be
21 registered under this Act if that tank was removed before
22 September 6, 1991.

23 (D) "Operation", as used in this subsection (b), means that
24 the tank must have had input or output of petroleum, petroleum
25 products, or hazardous substances, with the exception of
26 hazardous wastes, during the regular course of its usage.

1 "Operation" does not include (i) compliance with leak detection
2 requirements as prescribed by rules and regulations of the
3 Office of State Fire Marshal or (ii) the mere containment or
4 storage of petroleum, petroleum products, or hazardous
5 substances, with the exception of hazardous wastes.

6 (2) The owner of an underground storage tank who registered
7 the tank with the Office of the State Fire Marshal under
8 Section 4 of the State Fire Marshal Act prior to September 24,
9 1987 shall be deemed to have registered the tank under
10 paragraph (1).

11 (3) (A) Each person required to register an underground
12 storage tank, other than a heating oil underground storage
13 tank, under paragraph (1) shall pay the Office of the State
14 Fire Marshal a registration fee of \$500 for each tank
15 registered, to be deposited in the Underground Storage Tank
16 Fund.

17 (B) Each person required to register a heating oil
18 underground storage tank shall pay to the Office of the State
19 Fire Marshal a registration fee of \$100 for each tank
20 registered before July 2, 1992, and \$500 for each tank
21 registered after July 1, 1992, to be deposited into the
22 Underground Storage Tank Fund.

23 (C) No registration fee shall be due under this paragraph
24 (3) for underground storage tanks deemed registered pursuant to
25 paragraph (2).

26 (4) The Office of the State Fire Marshal shall establish

1 procedures relating to the collection of the fees authorized by
2 this subsection. Such procedures shall include, but need not be
3 limited to, the time and manner of payment to the Office of the
4 State Fire Marshal.

5 (5) The State Fire Marshal is authorized to enter into such
6 contracts and agreements as may be necessary, and as
7 expeditiously as necessary, to carry out the Office of the
8 State Fire Marshal's duties under this subsection.

9 (6) (A) The owner of an underground storage tank, other than
10 a heating oil underground storage tank, which is installed or
11 replaced after September 24, 1987, and which contained,
12 contains or may contain petroleum or petroleum products or
13 hazardous substances, with the exception of hazardous wastes,
14 shall register the tank with the Office of the State Fire
15 Marshal prior to the installation or replacement.

16 (B) The owner of a heating oil underground storage tank
17 installed or replaced after July 11, 1990, and which contained
18 or may contain heating oil shall register the tank with the
19 Office of the State Fire Marshal before the installation or
20 replacement.

21 (7) Any person required to register an underground storage
22 tank under paragraph (1) or paragraph (6) of this subsection
23 shall register the tank on forms provided by the Office of the
24 State Fire Marshal.

25 (c) Except as otherwise provided in subsection (d), a
26 person who is the owner of an underground storage tank

1 containing petroleum or petroleum products or hazardous
2 substances, except hazardous waste, registered under
3 subsection (b) shall notify the Office of the State Fire
4 Marshal of any change in the information required under this
5 Section or of the removal of an underground storage tank from
6 service.

7 (d) A person who is the owner of an underground storage
8 tank containing petroleum or petroleum products or hazardous
9 substances, except hazardous waste, the contents of which are
10 changed routinely, shall indicate all the materials which are
11 stored in the tank on the registration form. A person providing
12 the information described in this subsection is not required to
13 notify the Office of the State Fire Marshal of changes in the
14 contents of the tank unless the material to be stored in the
15 tank differs from the information provided on the registration
16 form.

17 (e) For purposes of this Act:

18 The terms "petroleum" and "underground storage tank" shall
19 have the meanings ascribed to them in Subtitle I of the
20 Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of
21 the Resource Conservation and Recovery Act of 1976 (P.L.
22 94-580), except that "underground storage tank" shall include
23 heating oil underground storage tanks; however no release
24 detection shall be required of heating oil tanks, in existence
25 as of July 11, 1990, prior to December 22, 1998. The Office of
26 the State Fire Marshal shall have the authority to determine

1 the criteria for classification of an underground storage tank
2 as being either a petroleum underground storage tank or a
3 hazardous substance underground storage tank.

4 When used in connection with, or when otherwise relating
5 to underground storage tanks, the terms "operator", "owner",
6 and "facility" shall have the meanings ascribed to them in
7 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
8 (P.L. 98-616) of the Resource Conservation and Recovery Act of
9 1976 (P.L. 94-580).

10 "Bodily injury" means bodily injury, sickness, or disease
11 sustained by a person, including death at any time, resulting
12 from a release of petroleum from an underground storage tank.

13 "Property damage" means physical injury to, destruction
14 of, or contamination of tangible property, including all
15 resulting loss of use of that property; or loss of use of
16 tangible property that is not physically injured, destroyed, or
17 contaminated, but has been evacuated, withdrawn from use, or
18 rendered inaccessible because of an occurrence.

19 "Occurrence" means an accident, including continuous or
20 repeated exposure to conditions, which results in a release of
21 petroleum into the environment from an underground storage
22 tank.

23 "Heating oil" means petroleum that is No. 1, No. 2, No. 4
24 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6
25 technical grades of fuel oil; or other residual fuel oils
26 including Navy Special Fuel Oil and Bunker C.

1 "Heating oil underground storage tank" means an
2 underground storage tank serving other than farms or
3 residential units that is used exclusively to store heating oil
4 for consumptive use on the premises where stored.

5 "Ethanol aboveground storage tank" means any one or
6 combination of tanks (including aboveground pipes connected
7 thereto) that contain an accumulation of ethanol, and the
8 volume of which (including the volume of the aboveground pipes
9 connected thereto) is 90% or more above the surface of the
10 ground.

11 (Source: P.A. 87-323; 87-1088; 88-496.)

12 (430 ILCS 15/4.5 new)

13 Sec. 4.5. Ethanol aboveground storage tanks;
14 administration.

15 (a) A retailer of ethanol blended gasoline that owns an
16 ethanol aboveground storage tank having a capacity of greater
17 than 6,000 gallons shall register the ethanol aboveground
18 storage tank with the Office of the State Fire Marshal. Each
19 retailer required to register an ethanol aboveground storage
20 tank shall pay the Office of the State Fire Marshal a
21 registration fee to be established by the Office of the State
22 Fire Marshal. The Office of the State Fire Marshal shall
23 establish procedures relating to the collection of the
24 registration fees authorized under this subsection (a). The
25 procedures shall include, but need not be limited to, the time

1 and manner of payment to the Office of the State Fire Marshal.
2 The State Fire Marshal is authorized to enter into any
3 contracts and agreements as may be necessary, and as
4 expeditiously necessary, to carry out the Office of the State
5 Fire Marshal's duties under this subsection (a). Any retailer
6 required to register an ethanol aboveground storage tank shall
7 register the tank on forms provided by the Office of the State
8 Fire Marshal.

9 (b) A retailer of ethanol blended gasoline that owns an
10 ethanol aboveground storage tank having a capacity of greater
11 than 6,000 gallons, the contents of which are changed
12 routinely, shall indicate all the materials that are stored in
13 the tank on the registration form. A retailer providing the
14 information described in this subsection (b) is not required to
15 notify the Office of the State Fire Marshal of any change in
16 the contents of the tank unless the material to be stored in
17 the tank differs from the information provided on the
18 registration form.

19 (430 ILCS 15/6) (from Ch. 127 1/2, par. 158)

20 Sec. 6. (a) If necessary or appropriate to assure that the
21 public health or safety is not threatened, the Office of State
22 Fire Marshal shall have authority to:

23 (1) (A) provide notice to the owner or operator, or both, of
24 an underground storage tank or ethanol aboveground storage tank
25 whenever there is a release or substantial threat of a release

1 of petroleum or regulated substances from such tank. Such
2 notice shall include the identified emergency action and an
3 opportunity for the owner or operator, or both, to perform the
4 emergency action; or

5 (B) undertake emergency action whenever there is a release
6 or substantial threat of a release of petroleum or regulated
7 substances from an underground storage tank or ethanol
8 aboveground storage tank.

9 (2) If notice has been provided under clause (A) of
10 paragraph (1) of this subsection, the Office shall have the
11 authority to require the owner or operator, or both, of an
12 underground storage tank or ethanol aboveground storage tank to
13 undertake emergency action whenever there is a release or
14 substantial threat of a release of petroleum or regulated
15 substances from such tank.

16 (3) The emergency action undertaken or required under this
17 Section shall be such as may be necessary or appropriate to
18 assure that the public health or safety is not threatened.

19 (b) In accordance with constitutional limitations, the
20 Office shall have authority to enter at all reasonable times
21 upon any private or public property for the purpose of taking
22 emergency action whenever there is a release or substantial
23 threat of a release of petroleum or regulated substances from
24 an underground storage tank or ethanol aboveground storage
25 tank.

26 (c) The Office shall require emergency action under

1 paragraph (2) of subsection (a) through issuance of an
2 Administrative Order. Such an order shall be served by
3 registered or certified mail or in person and may order
4 emergency action. Any person served with such an order may
5 appeal such order by submitting in writing any such appeal to
6 the Office within 10 days of the date of receipt of such order.
7 The Office shall conduct an administrative hearing governed by
8 The Illinois Administrative Procedure Act and enter an order to
9 sustain, modify or revoke such order. Any appeal from such
10 order shall be to the circuit court of the county in which the
11 violation took place and shall be governed by the
12 Administrative Review Law.

13 (d) Neither the State, the State Fire Marshal, nor any
14 State employee shall be liable for any damages or injury
15 arising out of or resulting from any action taken under Section
16 6.

17 (Source: P.A. 85-1325.)

18 (430 ILCS 15/6.1) (from Ch. 127 1/2, par. 158.1)

19 Sec. 6.1. Financial responsibility.

20 (a) Each owner or operator shall establish and maintain
21 evidence of financial responsibility, as provided in this
22 Section, for taking corrective action and compensating third
23 parties for bodily injury and property damage.

24 (b) Each owner or operator shall maintain financial
25 responsibility at the following minimum amounts:

- 1 (1) \$10,000 per occurrence for corrective action;
2 (2) \$10,000 per occurrence for bodily injury and
3 property damage to third parties.

4 (c) Each owner or operator shall establish and maintain
5 evidence of financial responsibility by any combination of the
6 following:

- 7 (1) commercial or private insurance, including risk
8 retention groups;
9 (2) qualification as a self insurer; or
10 (3) guarantee, surety bond, letter of credit,
11 certificate of deposit, or designated savings account.

12 To qualify as a self insurer under this Section, the owner
13 or operator must demonstrate net worth equal to or in excess of
14 10 times the amount specified in subsection (b) of this
15 Section.

16 (d) The establishment and enforcement of standards for the
17 financial responsibility of the owners and operators of
18 underground storage tanks, ethanol aboveground storage tanks,
19 and associated piping are exclusive powers and functions of the
20 State. A home rule unit may not regulate or establish standards
21 for the financial responsibility of the owners and operators of
22 underground storage tanks or ethanol aboveground storage
23 tanks. This Section is a denial and limitation of home rule
24 powers and functions under subsection (h) of Section 6 of
25 Article VII of the Illinois Constitution.

26 (Source: P.A. 87-323.)

1 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

2 Sec. 7. (a) A violation of:

3 (1) paragraph (a) or (b) of subsection (3) of Section 2
4 of this Act is a business offense punishable by a fine of
5 not more than \$10,000 per day;

6 (2) (blank);

7 (2.5) Section 4.5 of this Act is a business offense
8 punishable by a fine of not more than \$10,000 per day;

9 (3) Section 4 of this Act is a business offense
10 punishable by a fine of not more than \$10,000 per day;

11 (3.5) Section 3.5 of this Act is a business offense
12 punishable by fine of not more than \$10,000 per offense;

13 (4) an administrative order as described in paragraph
14 (e) of subsection (3) of Section 2, paragraph (b) of
15 subsection (4) of Section 2 or subsection (c) of Section 6
16 after it has become final is a business offense punishable
17 by a fine of not less than \$1,000 nor more than \$25,000 per
18 day;

19 (5) any other rule promulgated by the Office of the
20 State Fire Marshal is a business offense punishable by a
21 fine of not less than \$100 nor more than \$1,000 for each
22 offense or each day of continued violation.

23 (b) (Blank).

24 (c) A civil action to recover such fines may be brought by
25 the Attorney General or the State's Attorney of the county in

1 which the violation occurred.

2 (d) Any monies received by the State under this Section
3 shall be deposited into the Underground Storage Tank Fund.

4 (Source: P.A. 92-618, eff. 7-11-02.)