

1 AN ACT in relation to underground storage tanks.

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

4 Section 5. The Environmental Protection Act is amended  
5 by changing Section 57.9 as follows:

6 (415 ILCS 5/57.9)

7 Sec. 57.9. Underground Storage Tank Fund; eligibility and  
8 deductibility.

9 (a) The Underground Storage Tank Fund shall be  
10 accessible by owners and operators who have a confirmed  
11 release from an underground storage tank or related tank  
12 system of a substance listed in this Section. The owner or  
13 operator is eligible to access the Underground Storage Tank  
14 Fund if the eligibility requirements of this Title are  
15 satisfied and:

16 (1) Neither the owner nor the operator is the  
17 United States Government.

18 (2) The tank does not contain fuel which is exempt  
19 from the Motor Fuel Tax Law.

20 (3) The costs were incurred as a result of a  
21 confirmed release of any of the following substances:

22 (A) "Fuel", as defined in Section 1.19 of the  
23 Motor Fuel Tax Law.

24 (B) Aviation fuel.

25 (C) Heating oil.

26 (D) Kerosene.

27 (E) Used oil which has been refined from crude  
28 oil used in a motor vehicle, as defined in Section  
29 1.3 of the Motor Fuel Tax Law.

30 (4) The owner or operator registered the tank and  
31 paid all fees in accordance with the statutory and

1 regulatory requirements of the Gasoline Storage Act.

2 (5) The owner or operator notified the Illinois  
3 Emergency Management Agency of a confirmed release, the  
4 costs were incurred after the notification and the costs  
5 were a result of a release of a substance listed in this  
6 Section. Costs of corrective action or indemnification  
7 incurred before providing that notification shall not be  
8 eligible for payment.

9 (6) The costs have not already been paid to the  
10 owner or operator under a private insurance policy, other  
11 written agreement, or court order.

12 (7) The costs were associated with "corrective  
13 action" of this Act.

14 If the underground storage tank which experienced a  
15 release of a substance listed in this Section was  
16 installed after July 28, 1989, the owner or operator is  
17 eligible to access the Underground Storage Tank Fund if  
18 it is demonstrated to the Office of the State Fire  
19 Marshal the tank was installed and operated in accordance  
20 with Office of the State Fire Marshal regulatory  
21 requirements. Office of the State Fire Marshal  
22 certification is prima facie evidence the tank was  
23 installed pursuant to the Office of the State Fire  
24 Marshal regulatory requirements.

25 (b) An owner or operator may access the Underground  
26 Storage Tank Fund for costs associated with an Agency  
27 approved plan and the Agency shall approve the payment of  
28 costs associated with corrective action after the application  
29 of a \$10,000 deductible, except in the following situations:

30 (1) A deductible of \$100,000 shall apply when none  
31 of the underground storage tanks were registered prior to  
32 July 28, 1989, except that in the case of underground  
33 storage tanks used exclusively to store heating oil for  
34 consumptive use on the premises where stored and which

1 serve other than farms or residential units, a deductible  
2 of \$100,000 shall apply when none of these tanks were  
3 registered prior to July 1, 1992. The \$100,000  
4 deductible under this item (1) does not apply to  
5 underground storage tanks registered in accordance with  
6 the amnesty provisions of Section 4.1 of the Gasoline  
7 Storage Act.

8 (2) A deductible of \$50,000 shall apply if any of  
9 the underground storage tanks were registered prior to  
10 July 28, 1989, and the State received notice of the  
11 confirmed release prior to July 28, 1989.

12 (3) A deductible of \$15,000 shall apply when one or  
13 more, but not all, of the underground storage tanks were  
14 registered prior to July 28, 1989, and the State received  
15 notice of the confirmed release on or after July 28,  
16 1989.

17 A deductible shall apply annually for each site at which  
18 costs were incurred under a claim submitted pursuant to this  
19 Title, except that if corrective action in response to an  
20 occurrence takes place over a period of more than one year,  
21 in subsequent years, no deductible shall apply for costs  
22 incurred in response to such occurrence.

23 (c) Eligibility and deductibility determinations shall  
24 be made by the Office of the State Fire Marshal.

25 (1) When an owner or operator reports a confirmed  
26 release of a regulated substance, the Office of the State  
27 Fire Marshal shall provide the owner or operator with an  
28 "Eligibility and Deductibility Determination" form. The  
29 form shall either be provided on-site or within 15 days  
30 of the Office of the State Fire Marshal receipt of notice  
31 indicating a confirmed release. The form shall request  
32 sufficient information to enable the Office of the State  
33 Fire Marshal to make a final determination as to owner or  
34 operator eligibility to access the Underground Storage

1 Tank Fund pursuant to this Title and the appropriate  
 2 deductible. The form shall be promulgated as a rule or  
 3 regulation pursuant to the Illinois Administrative  
 4 Procedure Act by the Office of the State Fire Marshal.  
 5 Until such form is promulgated, the Office of State Fire  
 6 Marshal shall use a form which generally conforms with  
 7 this Act.

8 (2) Within 60 days of receipt of the "Eligibility  
 9 and Deductibility Determination" form, the Office of the  
 10 State Fire Marshal shall issue one letter enunciating the  
 11 final eligibility and deductibility determination, and  
 12 such determination or failure to act within the time  
 13 prescribed shall be a final decision appealable to the  
 14 Illinois Pollution Control Board. shall be made by the

15 (Source: P.A. 88-496.)

16 Section 10. The Gasoline Storage Act is amended by  
 17 adding Section 4.1 and changing Section 7 as follows:

18 (430 ILCS 15/4.1 new)

19 Sec. 4.1. Late registration amnesty program.

20 (a) The General Assembly finds and declares that:

21 (1) Leaking petroleum products from underground  
 22 storage tanks continue to pose a serious environmental  
 23 hazard to the People of this State.

24 (2) A substantial number of underground storage  
 25 tanks in this State that are required to be registered  
 26 under subsection (b) of Section 4 of this Act remain  
 27 unregistered.

28 (3) The penalty imposed for late registration under  
 29 Section 7 (up to \$10,000 per day) is so severe as to  
 30 discourage owners of unregistered tanks from coming  
 31 forward and registering them.

32 (4) It is the intent of the General Assembly to

1 encourage the registration of unregistered underground  
2 storage tanks by creating an amnesty for owners who  
3 voluntarily come forward and register their unregistered  
4 tanks.

5 (b) If the owner of an underground storage tank that is  
6 required to be registered under subsection (b) of Section 4  
7 of this Act first registers that tank and pays the required  
8 registration fee within the 6 months following the effective  
9 date of this Section:

10 (1) The penalties for late registration imposed  
11 under subdivision (a)(3) of Section 7 and any applicable  
12 rules are waived with respect to that tank.

13 (2) The tank shall be deemed to have been  
14 registered in accordance with this Section for purposes  
15 of determining the applicable deductible amount under  
16 Section 57.9 of the Environmental Protection Act.

17 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

18 Sec. 7. Penalties.

19 (a) A violation of:

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

23 (2) paragraph (c) of subsection (3) of Section 2 is  
24 a petty offense punishable by a fine of not less than  
25 \$100 nor more than \$500 per tank tested;

26 (3) Section 4 or 5 Sections-4-and-5 of this Act is  
27 a business offense punishable by a fine of not more than  
28 \$10,000 per day, except as provided in Section 4.1;

29 (3.5) Section 3.5 of this Act is a business offense  
30 punishable by a fine of not more than \$10,000 per  
31 offense;

32 (4) an administrative order as described in  
33 paragraph (e) of subsection (3) of Section 2, paragraph

1 (b) of subsection (4) of Section 2 or subsection (c) of  
2 Section 6 after it has become final is a business offense  
3 punishable by a fine of not less than \$1,000 nor more  
4 than \$25,000 per day;

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

9 (b) The State Fire Marshal may suspend or revoke the  
10 registration of any person who has violated the rules of the  
11 State Fire Marshal after notice and opportunity for an  
12 Administrative hearing which shall be governed by the  
13 Illinois Administrative Procedure Act. Any appeal from such  
14 suspension or revocation shall be to the circuit court of the  
15 county in which the hearing was held and be governed by the  
16 Administrative Review Law.

17 (c) A civil action to recover such fines may be brought  
18 by the Attorney General or the State's Attorney of the county  
19 in which the violation occurred.

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

22 (Source: P.A. 90-662, eff. 7-30-98.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.