



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:59

NJSA: 58:10A-29

"Underground storage tanks -- extension of deadline for compliance"

BILL NO: S1159 (Substituted for A2135)

SPONSOR(S): Bassano and DiFrancesco

DATE INTRODUCED: May 28, 1998

COMMITTEE:

ASSEMBLY: ~~~~

SENATE: Environment

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: June 29, 1998

SENATE: June 29, 1998

DATE OF APPROVAL: July 30, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Senate Committee Substitute (1st reprint)
(Amendments during passage denoted by superscript numbers)

S1159

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*No*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS:*Yes*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2135

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)
(Bill and Sponsors Statement identical to S1159)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes* (Identical to Senate Statement for S1159)

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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NEWSPAPER ARTICLES: *No*

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1159

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JUNE 15, 1996

Sponsored by:

Senator C. LOUIS BASSANO

District 21 (Essex and Union)

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

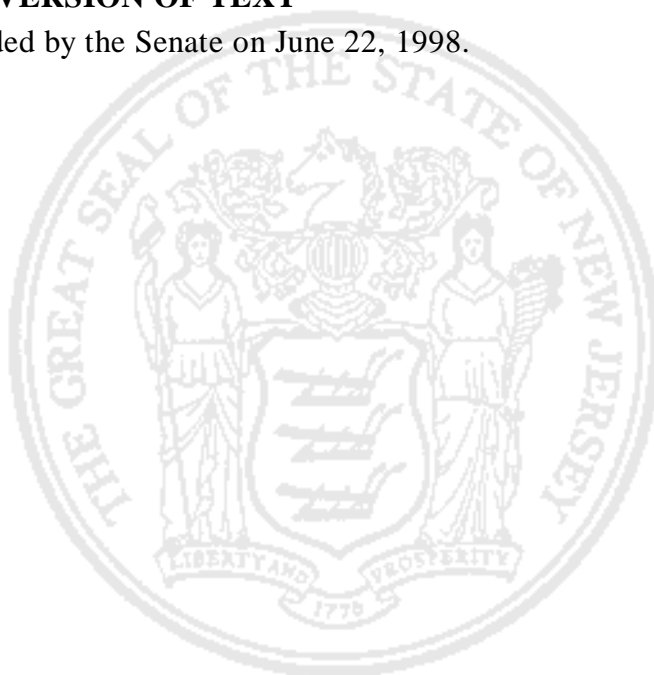
**Senators Codey, O'Connor, Assemblymen DiGaetano, Doria, Blee,
LeFevre and Steele**

SYNOPSIS

Extends deadline for compliance for certain underground storage tanks.

CURRENT VERSION OF TEXT

As amended by the Senate on June 22, 1998.



(Sponsorship Updated As Of: 6/30/1998)

1 AN ACT concerning underground storage tanks and amending and
2 supplementing P.L.1986, c.102, and amending P.L.1997, c.235.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 9 of P.L.1986, c.102 (C.58:10A-29) is amended to read
8 as follows:

9 9. a. The department shall adopt rules and regulations, pursuant
10 to the "Administrative Procedure Act," P.L.1968, c.410 (52:14B-1 et
11 seq.), requiring the owner or operator of a facility to meet the
12 standards for the construction, installation, and operation of new and
13 existing underground storage tanks, including standards for secondary
14 containment, monitoring systems, release detection systems, corrosion
15 protection, spill prevention, and overfill prevention, and other
16 underground storage tank equipment adopted pursuant to paragraph
17 (2) of subsection a. of section 5 of P.L.1986, c.102 (C.58:10A-25).
18 The deadlines for compliance with the standards shall be identical to
19 those deadlines established by the United States Environmental
20 Protection Agency pursuant to 42 U.S.C. s.6991 et seq. for all
21 underground storage tanks, including those underground storage tanks
22 not regulated pursuant to 42 U.S.C. s.6991 et seq.

23 b. Notwithstanding the provisions of subsection a. of this section
24 to the contrary,¹ and except as provided in section 2 of P.L. c. (C.
25) (now in the Legislature as this bill),¹ the deadline for compliance for
26 underground storage tanks with a capacity of over 2,000 gallons used
27 to store heating oil for onsite consumption in a non-residential building
28 shall be five years after the deadline established pursuant to subsection
29 a. of this section.

30 (cf: P.L.1994, c.14, s.3)

31

32 2. (New section) The owner or operator of any underground
33 storage tank with a capacity of over 2,000 gallons used to store
34 heating oil for onsite consumption in a non-residential building who
35 does not meet the deadline for compliance pursuant to subsection a.
36 of section 9 of P.L.1986, c.102 (C.58:10A-29), shall, no later than
37 December 22, 1998, enter into a contract for the provision of leak
38 detection testing on the underground storage tank using a method that
39 is ¹**[generally]**¹ accepted by the ¹**[petroleum industry as being**
40 **accurate and reliable]**Department of Environmental Protection¹, which
41 testing shall be performed no later than August 31, 1999 and at least

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 22, 1998.

1 once every 36 months thereafter. The owner or operator of the
2 underground storage tank shall provide a copy of the contract to the
3 Department of Environmental Protection by December 22, 1998 and
4 shall notify the department of the results of the test within 15 days of
5 its performance. ¹If an owner or operator of an underground storage
6 tank fails to comply with the testing and notification requirements
7 specified in this section, then the deadline for compliance shall not be
8 extended as provided in subsection b. of section 9 of P.L. 1986, c. 102
9 (C.58:10A-29) and the owner or operator who fails to comply with the
10 deadlines established in subsection a. of section 9 of P.L. 1986, c. 102
11 shall be subject to the penalties as provided in section 10 of P.L.1977,
12 c.74 (C.58:10A-10).¹
13

14 3. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to
15 read as follows:

16 7. a. The authority shall award financial assistance to an owner or
17 operator of a facility only if the facility is properly registered with the
18 department pursuant to section 3 of P.L.1986, c.102 (C.58:10A-23),
19 where applicable, and if all fees or penalties due and payable on the
20 facility to the department pursuant to P.L.1986, c.102 have either been
21 paid or the nature or the amount of the fee or penalty is being
22 contested in accordance with law.

23 b. The authority may deny an application for financial assistance,
24 and any award of financial assistance may be recoverable by the
25 authority, upon a finding that:

26 (1) in the case of financial assistance awarded for a remediation,
27 the discharge was proximately caused by the applicant's knowing
28 conduct;

29 (2) in the case of financial assistance awarded for a remediation,
30 the discharge was proximately caused or exacerbated by knowing
31 conduct by the applicant with regard to any lawful requirement
32 applicable to petroleum underground storage tanks intended to
33 prevent, or to facilitate the early detection of, the discharge;

34 (3) the applicant failed to commence or complete a remediation,
35 closure, or an upgrade for which an award of financial assistance was
36 made within the time required by the department in accordance with
37 the applicable rules and regulations, within the time prescribed in an
38 administrative order, an administrative consent agreement, a
39 memorandum of agreement, or a court order; or

40 (4) the applicant provided false information or withheld
41 information on a loan or grant application, or other relevant
42 information required to be submitted to the authority, on any matter
43 that would otherwise render the applicant ineligible for financial
44 assistance from the fund, that would alter the priority of the applicant
45 to receive financial assistance from the fund, that resulted in the
46 applicant receiving a larger grant or loan award than the applicant

1 would otherwise be eligible, or that resulted in payments from the fund
2 in excess of the actual eligible project costs incurred by the applicant
3 or the amount to which the applicant is legally eligible.

4 Nothing in this subsection shall be construed to require the
5 authority to undertake an investigation or make any findings
6 concerning the conduct described in this subsection.

7 c. An application for financial assistance from the fund for an
8 upgrade or closure of a regulated tank shall include all regulated tanks
9 at the facility for which the applicant is seeking financial assistance.
10 Once financial assistance for an upgrade, closure or a remediation is
11 awarded for a facility, no additional award of financial assistance may
12 be made for that facility. However, if an applicant discovers while
13 performing upgrade or closure activities that a remediation is
14 necessary at the site of a facility, and if financial assistance was
15 previously awarded for that site only for an upgrade or closure of a
16 regulated tank, the applicant may amend his application and apply for
17 financial assistance for the required remediation subject to the
18 limitations enumerated in section 5 of this act. An application for
19 financial assistance for an upgrade or closure of a regulated tank shall
20 be conditioned upon the applicant agreeing to perform, at the time of
21 the upgrade or closure, any remediation necessary as a result of a
22 discharge from the regulated tank and commencement of the
23 remediation within the time prescribed and in accordance with the
24 rules and regulations of the department.

25 d. ¹~~【No】~~ Except as provided below, no¹ financial assistance for
26 upgrade or closure shall be awarded for any regulated tank required
27 to meet the upgrade or closure requirements pursuant to 42 U.S.C.
28 s.6991 et seq. ~~【or P.L.1986, c.102 (C.58:10A-21 et seq.)】~~¹or
29 P.L.1986, c.102 (C.58:10A-21 et seq.)¹, or for the remediation of a
30 discharge from any such regulated tank except as provided in
31 subsection c. of this section, unless the application is filed with the
32 authority prior to January 1, 1999 and the application is complete and
33 the application fee is received by March 1, 1999. No financial
34 assistance for upgrade or closure shall be awarded for any¹ ~~【regulated~~
35 tank】 underground storage tank with a capacity of over 2,000 gallons
36 used to store heating oil for onsite consumption in a nonresidential
37 building¹ required to be upgraded pursuant to P.L.1986, c.102
38 (C.58:10A-21 et seq.) but not pursuant to 42 U.S.C. s.6991 et seq. or
39 for the remediation of a discharge from any such regulated tank except
40 as provided in subsection c. of this section, unless the application is
41 filed with the authority prior to August 31, 1999 and the application
42 is complete and the application fee is received by October 31, 1999.

43 e. The date of occurrence of a discharge shall not affect eligibility
44 for financial assistance from the fund. Except for a preliminary
45 assessment or a site investigation performed after the effective date of
46 P.L.1997, c.235 (C.58:10A-37.1 et seq.), and except as provided in

1 subsection g. of this section, no award of financial assistance shall be
2 made from the fund for the otherwise eligible project costs of a
3 remediation, closure, or an upgrade, or parts thereof, completed prior
4 to an award of financial assistance from the fund.

5 f. No financial assistance may be awarded from the fund for the
6 remediation of a discharge from a petroleum underground storage tank
7 if financial assistance from the Hazardous Discharge Site Remediation
8 Fund established pursuant to section 26 of P.L.1993, c.139
9 (C.58:10B-4) has previously been made for a remediation at that site
10 as a result of a discharge from that petroleum underground storage
11 tank. No financial assistance may be awarded from the fund for the
12 remediation of a discharge from a petroleum underground storage tank
13 if the discharge began subsequent to the completion of an upgrade of
14 that petroleum underground storage tank, which upgrade was intended
15 to meet all applicable upgrade regulations of the department, no matter
16 when the upgrade was performed.

17 g. Notwithstanding any provision of P.L.1997, c.235
18 (C.58:10A-37.1 et seq.), where an eligible owner or operator has filed
19 an application for financial assistance from the fund, and there are
20 either insufficient monies in the fund or the authority has not yet acted
21 upon the application or awarded the financial assistance, the eligible
22 owner or operator may expend its own funds for the upgrade, closure,
23 or remediation, and upon approval of the application, the authority
24 shall award the financial assistance as a reimbursement of the monies
25 expended for eligible project costs.

26 (cf: P.L.1997, c.235, s.7)

27

28 4. This act shall take effect immediately.

SENATE, No. 1159

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 28, 1998

Sponsored by:

Senator C. LOUIS BASSANO

District 21 (Essex and Union)

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

Senator Codey

SYNOPSIS

Exempts certain owners of some underground storage tanks from regulation and extends deadline of upgrade requirements for certain tanks.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning underground storage tanks and amending
2 P.L.1986, c.102.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1986, c.102 (C.58:10A-22) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Commissioner" means the Commissioner of the Department of
11 Environmental Protection;

12 b. "Department" means the Department of Environmental
13 Protection;

14 c. "Discharge" means the intentional or unintentional release by any
15 means of hazardous substances from an underground storage tank into
16 the environment;

17 d. "Facility" means one or more underground storage tanks;

18 e. "Hazardous substances" means motor fuels and those elements
19 and compounds, including petroleum products which are liquid at
20 standard conditions of temperature and pressure (60 degrees
21 Fahrenheit and 14.7 pounds per square inch absolute), which are
22 defined as hazardous substances by the department after public
23 hearing, and which shall be consistent to the maximum extent possible
24 with and which shall include the list of hazardous wastes adopted by
25 the United States Environmental Protection Agency pursuant to
26 section 3001 of the "Resource Conservation and Recovery Act of
27 1976," Pub.L.94-580 (42 U.S.C. s.6921), the list of hazardous
28 substances adopted by the United States Environmental Protection
29 Agency pursuant to section 311 of the "Federal Water Pollution
30 Control Act Amendments of 1972," Pub.L.92-500 (33 U.S.C. s.1321),
31 the list of toxic pollutants designated by Congress or the
32 Environmental Protection Agency pursuant to section 307 of that act
33 (33 U.S.C. s.1317), and any substance defined as a hazardous
34 substance pursuant to section 101(14) of the "Comprehensive
35 Environmental Response, Compensation, and Liability Act of 1980,"
36 Pub.L.96-510 (42 U.S.C. s.9601);

37 f. "Leak" means the release of a hazardous substance from an
38 underground storage tank into a space created by a method of
39 secondary containment wherein it can be detected by visual inspection
40 or a monitoring system before it enters the environment;

41 g. "Monitoring system" means a system capable of detecting leaks
42 or discharges, or both, other than an inventory control system, used in
43 conjunction with an underground storage tank, or a facility,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 conforming to criteria established pursuant to section 5 of this act;
- 2 h. "Nonoperational storage tank" means any underground storage
3 tank in which hazardous substances are not contained, or from which
4 hazardous substances are not dispensed;
- 5 i. "Operator" means any person in control of, or having
6 responsibility for, the daily operation of a facility;
- 7 j. "Owner" means any person who owns a facility, or in the case
8 of a nonoperational storage tank, the person who owned the
9 nonoperational storage tank immediately prior to the discontinuation
10 of its use;
- 11 k. "Person" means any individual, partnership, company,
12 corporation, consortium, joint venture, commercial or any other legal
13 entity, the State of New Jersey, or the United States Government;
- 14 l. "Residential building" means a single and multi-family dwelling,
15 nursing home, trailer, condominium, boarding house, apartment house,
16 or other structure designed primarily for use as a dwelling;
- 17 m. "Secondary containment" means an additional layer of
18 impervious material creating a space wherein a leak of hazardous
19 substances from an underground storage tank may be detected before
20 it enters the environment;
- 21 n. "Substantially modify" means construction at, or restoration,
22 refurbishment or renovation of, an existing facility which increases or
23 decreases the in-place storage capacity of the facility or alters the
24 physical configuration or impairs or affects the physical integrity of the
25 facility or its monitoring systems;
- 26 o. "Test" or "testing" means the testing of underground storage
27 tanks in accordance with standards adopted by the department;
- 28 p. "Underground storage tank" means any one or combination of
29 tanks, including appurtenant pipes, lines, fixtures, and other related
30 equipment, used to contain an accumulation of hazardous substances,
31 the volume of which, including the volume of the appurtenant pipes,
32 lines, fixtures and other related equipment, is 10% or more below the
33 ground. "Underground storage tank" shall not include:
- 34 (1) Farm or residential tanks of 1,100 gallons or less capacity used
35 for storing motor fuel for noncommercial purposes;
- 36 (2) Tanks used to store heating oil for on-site consumption in a
37 nonresidential building with a capacity of 2,000 gallons or less and
38 tanks used to store heating oil in a nonresidential building with a
39 capacity of more than 2,000 gallons that are owned or operated by a
40 nonprofit organization that is exempt from federal taxation pursuant
41 to section 501 of the Internal Revenue Code of 1986, 26 U.S.C. s.501;
- 42 (3) Tanks used to store heating oil for on-site consumption in a
43 residential building;
- 44 (4) Septic tanks installed in compliance with regulations adopted
45 by the department pursuant to "The Realty Improvement Sewerage
46 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);

1 (5) Pipelines, including gathering lines, regulated under the
2 "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C.
3 s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979,"
4 Pub.L.96-129 (49 U.S.C.s.2001 et seq.), or intrastate pipelines
5 regulated under State law;

6 (6) Surface impoundments, pits, ponds, or lagoons, operated in
7 compliance with regulations adopted by the department pursuant to
8 the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et
9 seq.);

10 (7) Storm water or wastewater collection systems operated in
11 compliance with regulations adopted by the department pursuant to
12 the "Water Pollution Control Act";

13 (8) Liquid traps or associated gathering lines directly related to oil
14 or gas production and gathering operations;

15 (9) Tanks situated in an underground area, including, but not
16 limited to, basements, cellars, mines, drift shafts, or tunnels, if the
17 storage tank is situated upon or above the surface of the floor, or
18 storage tanks located below the surface of the ground which are
19 equipped with secondary containment and are uncovered so as to
20 allow visual inspection of the exterior of the tank; and

21 (10) Any pipes, lines, fixtures, or other equipment connected to any
22 tank exempted from the provisions of this act pursuant to paragraphs
23 (1) through (9) of this subsection.

24 q. "Wellhead protection area" means an aquifer area described in
25 a plan view around a well, from within which groundwater flows to the
26 well and through which groundwater pollution, if it occurs, may pose
27 a significant threat to the water quality of the well. The wellhead
28 protection area is delimited by the use of time-of-travel and hydrologic
29 boundaries.

30 (cf: P.L.1994, c.14, s.1)

31
32 2. Section 9 of P.L.1986, c.102 (C.58:10A-29) is amended to read
33 as follows:

34 9. a. The department shall adopt rules and regulations, pursuant
35 to the "Administrative Procedure Act," P.L.1968, c.410 (52:14B-1 et
36 seq.), requiring the owner or operator of a facility to meet the
37 standards for the construction, installation, and operation of new and
38 existing underground storage tanks, including standards for secondary
39 containment, monitoring systems, release detection systems, corrosion
40 protection, spill prevention, and overflow prevention, and other
41 underground storage tank equipment adopted pursuant to paragraph
42 (2) of subsection a. of section 5 of P.L.1986, c.102 (C.58:10A-25).
43 The deadlines for compliance with the standards shall be identical to
44 those deadlines established by the United States Environmental
45 Protection Agency pursuant to 42 U.S.C.s.6991 et seq. for all
46 underground storage tanks, including those underground storage tanks

1 not regulated pursuant to 42 U.S.C.s.6991 et seq.

2 b. Notwithstanding the provisions of subsection a. of this section
3 to the contrary, the deadline for compliance for underground storage
4 tanks with a capacity of over 2,000 gallons used to store heating oil
5 for onsite consumption in a non-residential building, shall be five years
6 after the deadline established pursuant to subsection a. of this section.
7 (cf: P.L.1994, c.14, s.3)

8

9 3. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill would exempt from regulation those underground storage
15 tanks over 2,000 gallons that are used to store heating oil for onsite
16 consumption in a nonresidential building that are owned or operated
17 by nonprofit organizations that are exempt from federal taxation
18 pursuant to section 501 of the Internal Revenue Code of 1986, 26
19 U.S.C.s.501. The bill would also extend the deadline for compliance
20 with the upgrade requirements for five years for all other owners of
21 those underground storage tanks over 2,000 gallons that are used to
22 store heating oil for onsite consumption in a nonresidential building.
23 Currently, the law does not regulate tanks that store heating oil that
24 is used for onsite consumption in residential buildings.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1159

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Senate Environment Committee favorably reports a Senate committee substitute for Senate Bill No. 1159.

This committee substitute would extend for five years the compliance deadline for upgrade for those underground storage tanks over 2,000 gallons that are used to store heating oil for onsite consumption in a nonresidential building. No later than December 22, 1998, the owner or operator of a tank that has not been upgraded shall enter into a contract to test the tank for leaks, which testing must be performed no later than August 31, 1999 and every 36 months thereafter. The method of leak detection testing to be used must be considered as accurate and reliable by the petroleum industry. The committee substitute would require that the owner or operator of the tank send a copy of the contract for testing to the Department of Environmental Protection by December 22, 1998 and the results of testing be submitted to the Department of Environmental Protection within 15 days of its performance. Finally, for those tanks for which the deadline for compliance has been extended, the bill would extend the deadline for submission of an application for a loan or a grant from the "Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund," created pursuant to P.L.1997, c.235 (C.58:10A-37.1 et seq.) to August 31, 1999.

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1159

with Senate Floor Amendments
(Proposed By Senator BASSANO)

ADOPTED: JUNE 22, 1998

These floor amendments would provide that the extension for five years of the upgrade deadline for underground storage tanks with a capacity of over 2,000 gallons used to store heating oil for onsite consumption in a non-residential building would not apply unless the owner or operator performs the required leak detection testing and notifies the Department of Environmental Protection of the results within the time provided. In that event, the owner or operator would be subject to the penalties as provided in P.L.1977, c.74 (C.58:10A-10). The amendments would require that the leak detection test method be accepted by the department and would clarify that the extension of the application deadline for financial assistance from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund established pursuant to P.L.1997, c.235 (C.58:10A-37.1 et seq.) is only for the owner or operator of those tanks for which compliance deadline is extended.

ASSEMBLY, No. 2135

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 1, 1998

Sponsored by:

Assemblyman PAUL DIGAETANO
District 36 (Bergen, Essex and Passaic)
Assemblyman JOSEPH V. DORIA, JR.
District 31 (Hudson)

Co-Sponsored by:

Assemblyman Blee

SYNOPSIS

Exempts certain owners of some underground storage tanks from regulation and extends deadline of upgrade requirements for certain tanks.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/1998)

1 AN ACT concerning underground storage tanks and amending
2 P.L.1986, c.102.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1986, c.102 (C.58:10A-22) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Commissioner" means the Commissioner of the Department of
11 Environmental Protection;

12 b. "Department" means the Department of Environmental
13 Protection;

14 c. "Discharge" means the intentional or unintentional release by any
15 means of hazardous substances from an underground storage tank into
16 the environment;

17 d. "Facility" means one or more underground storage tanks;

18 e. "Hazardous substances" means motor fuels and those elements
19 and compounds, including petroleum products which are liquid at
20 standard conditions of temperature and pressure (60 degrees
21 Fahrenheit and 14.7 pounds per square inch absolute), which are
22 defined as hazardous substances by the department after public
23 hearing, and which shall be consistent to the maximum extent possible
24 with and which shall include the list of hazardous wastes adopted by
25 the United States Environmental Protection Agency pursuant to
26 section 3001 of the "Resource Conservation and Recovery Act of
27 1976," Pub.L.94-580 (42 U.S.C. s.6921), the list of hazardous
28 substances adopted by the United States Environmental Protection
29 Agency pursuant to section 311 of the "Federal Water Pollution
30 Control Act Amendments of 1972," Pub.L.92-500 (33 U.S.C. s.1321),
31 the list of toxic pollutants designated by Congress or the
32 Environmental Protection Agency pursuant to section 307 of that act
33 (33 U.S.C. s.1317), and any substance defined as a hazardous
34 substance pursuant to section 101(14) of the "Comprehensive
35 Environmental Response, Compensation, and Liability Act of 1980,"
36 Pub.L.96-510 (42 U.S.C. s.9601);

37 f. "Leak" means the release of a hazardous substance from an
38 underground storage tank into a space created by a method of
39 secondary containment wherein it can be detected by visual inspection
40 or a monitoring system before it enters the environment;

41 g. "Monitoring system" means a system capable of detecting leaks
42 or discharges, or both, other than an inventory control system, used in
43 conjunction with an underground storage tank, or a facility,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 conforming to criteria established pursuant to section 5 of this act;
- 2 h. "Nonoperational storage tank" means any underground storage
3 tank in which hazardous substances are not contained, or from which
4 hazardous substances are not dispensed;
- 5 i. "Operator" means any person in control of, or having
6 responsibility for, the daily operation of a facility;
- 7 j. "Owner" means any person who owns a facility, or in the case of
8 a nonoperational storage tank, the person who owned the
9 nonoperational storage tank immediately prior to the discontinuation
10 of its use;
- 11 k. "Person" means any individual, partnership, company,
12 corporation, consortium, joint venture, commercial or any other legal
13 entity, the State of New Jersey, or the United States Government;
- 14 l. "Residential building" means a single and multi-family dwelling,
15 nursing home, trailer, condominium, boarding house, apartment house,
16 or other structure designed primarily for use as a dwelling;
- 17 m. "Secondary containment" means an additional layer of
18 impervious material creating a space wherein a leak of hazardous
19 substances from an underground storage tank may be detected before
20 it enters the environment;
- 21 n. "Substantially modify" means construction at, or restoration,
22 refurbishment or renovation of, an existing facility which increases or
23 decreases the in-place storage capacity of the facility or alters the
24 physical configuration or impairs or affects the physical integrity of the
25 facility or its monitoring systems;
- 26 o. "Test" or "testing" means the testing of underground storage
27 tanks in accordance with standards adopted by the department;
- 28 p. "Underground storage tank" means any one or combination of
29 tanks, including appurtenant pipes, lines, fixtures, and other related
30 equipment, used to contain an accumulation of hazardous substances,
31 the volume of which, including the volume of the appurtenant pipes,
32 lines, fixtures and other related equipment, is 10% or more below the
33 ground. "Underground storage tank" shall not include:
- 34 (1) Farm or residential tanks of 1,100 gallons or less capacity used
35 for storing motor fuel for noncommercial purposes;
- 36 (2) Tanks used to store heating oil for on-site consumption in a
37 nonresidential building with a capacity of 2,000 gallons or less and
38 tanks used to store heating oil in a nonresidential building with a
39 capacity of more than 2,000 gallons that are owned or operated by a
40 nonprofit organization that is exempt from federal taxation pursuant
41 to section 501 of the Internal Revenue Code of 1986, 26 U.S.C. s.501;
- 42 (3) Tanks used to store heating oil for on-site consumption in a
43 residential building;
- 44 (4) Septic tanks installed in compliance with regulations adopted
45 by the department pursuant to "The Realty Improvement Sewerage
46 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);

1 (5) Pipelines, including gathering lines, regulated under the
2 "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C.
3 s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979,"
4 Pub.L.96-129 (49 U.S.C. s.2001 et seq.), or intrastate pipelines
5 regulated under State law;

6 (6) Surface impoundments, pits, ponds, or lagoons, operated in
7 compliance with regulations adopted by the department pursuant to
8 the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et
9 seq.);

10 (7) Storm water or wastewater collection systems operated in
11 compliance with regulations adopted by the department pursuant to
12 the "Water Pollution Control Act";

13 (8) Liquid traps or associated gathering lines directly related to oil
14 or gas production and gathering operations;

15 (9) Tanks situated in an underground area, including, but not
16 limited to, basements, cellars, mines, drift shafts, or tunnels, if the
17 storage tank is situated upon or above the surface of the floor, or
18 storage tanks located below the surface of the ground which are
19 equipped with secondary containment and are uncovered so as to
20 allow visual inspection of the exterior of the tank; and

21 (10) Any pipes, lines, fixtures, or other equipment connected to
22 any tank exempted from the provisions of this act pursuant to
23 paragraphs (1) through (9) of this subsection.

24 q. "Wellhead protection area" means an aquifer area described in
25 a plan view around a well, from within which groundwater flows to the
26 well and through which groundwater pollution, if it occurs, may pose
27 a significant threat to the water quality of the well. The wellhead
28 protection area is delimited by the use of time-of-travel and hydrologic
29 boundaries.

30 (cf: P.L.1994, c.14, s.1)

31
32 2. Section 9 of P.L.1986, c.102 (C.58:10A-29) is amended to read
33 as follows:

34 9. a. The department shall adopt rules and regulations, pursuant
35 to the "Administrative Procedure Act," P.L.1968, c.410 (52:14B-1 et
36 seq.), requiring the owner or operator of a facility to meet the
37 standards for the construction, installation, and operation of new and
38 existing underground storage tanks, including standards for secondary
39 containment, monitoring systems, release detection systems, corrosion
40 protection, spill prevention, and overflow prevention, and other
41 underground storage tank equipment adopted pursuant to paragraph
42 (2) of subsection a. of section 5 of P.L.1986, c.102 (C.58:10A-25).
43 The deadlines for compliance with the standards shall be identical to
44 those deadlines established by the United States Environmental
45 Protection Agency pursuant to 42 U.S.C. s.6991 et seq. for all
46 underground storage tanks, including those underground storage tanks

1 not regulated pursuant to 42 U.S.C. s.6991 et seq.

2 b. Notwithstanding the provisions of subsection a. of this section
3 to the contrary, the deadline for compliance for underground storage
4 tanks with a capacity of over 2,000 gallons used to store heating oil
5 for onsite consumption in a non-residential building, shall be five years
6 after the deadline established pursuant to subsection a. of this section.
7 (cf: P.L.1994, c.14, s.3)

8

9 3. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill would exempt from regulation those underground storage
15 tanks over 2,000 gallons that are used to store heating oil for onsite
16 consumption in a nonresidential building that are owned or operated
17 by nonprofit organizations that are exempt from federal taxation
18 pursuant to section 501 of the Internal Revenue Code of 1986,
19 26 U.S.C. s.501. The bill would also extend the deadline for
20 compliance with the upgrade requirements for five years for all other
21 owners of those underground storage tanks over 2,000 gallons that are
22 used to store heating oil for onsite consumption in a nonresidential
23 building. Currently, the law does not regulate tanks that store heating
24 oil that is used for onsite consumption in residential buildings.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2135**

STATE OF NEW JERSEY

DATED: JUNE 22, 1998

The Assembly Solid and Hazardous Waste Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 2135.

This committee substitute would extend for five years the compliance deadline for upgrade for those underground storage tanks over 2,000 gallons that are used to store heating oil for onsite consumption in a nonresidential building, unless the owner or operator fails to perform the required leak detection testing and to notify the Department of Environmental Protection of the results within the time provided. No later than December 22, 1998, the owner or operator of a tank that has not been upgraded shall enter into a contract to test the tank for leaks, which testing must be performed no later than August 31, 1999 and every 36 months thereafter. The method of leak detection testing to be used must be accepted by the Department of Environmental Protection. The committee substitute would require that the owner or operator of the tank send a copy of the contract for testing to the Department of Environmental Protection by December 22, 1998 and the results of testing be submitted to the Department of Environmental Protection within 15 days of its performance. Finally, for those tanks for which the deadline for compliance has been extended, the bill would extend the deadline for submission of an application for a loan or a grant from the "Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund," created pursuant to P.L.1997, c.235 (C.58:10A-37.1 et seq.) to August 31, 1999.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

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RELEASE: July 30, 1998

Gov. Christie Whitman today acted on a number of pieces of legislation.

The Governor signed the following pieces of legislation:

A-405, sponsored by Assembly Members Jeffrey Moran (R-Atlantic/Ocean/Burlington) and Anthony Impreveduto (D-Bergen/Hudson), would give professional movers the option of using binding price estimates instead of the existing tariff system. Currently, movers are restricted to charging only the tariff price. The bill also limits a mover's right to withhold shipment in the event of a dispute with a customer who has been given a binding estimate. The bill is aimed at providing consumers with price breaks and protection, and will allow movers to lower prices when business is slow.

S-593, sponsored by Senators Winona Lipman (D-Essex/Union) and Ron Rice (D-Essex) and Assembly Members William Payne (D-Essex/Union) and Craig Stanley (D-Essex), provides a \$25,000 supplemental appropriation to the Department of Community Affairs for a grant to the Newark Boys Chorus School for transportation expenses to the Union of South Africa. The trip was completed in May. The funding will help defray costs of transportation for students and accompanying adults.

S-1159, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union), provides for a five-year extension for the mandatory upgrade of non-residential heating oil underground storage tanks (USTs) with a capacity of over 2,000 gallons. The previous deadline for upgrading the USTs was December 22, 1998, which is the federal deadline for federally - regulated USTs. The extension provided for in the bill is conditioned upon the owner or operator signing a contract for the testing of the UST and submitting it to the state Department of Environmental Protection (DEP).

Under the legislation, owners and operators have until August 31, 1999 to complete testing and submit the results to the DEP. The bill also extends the deadline to apply for financing pursuant to the Underground Storage Tank Financing Act from January 1, 1999 to August 31, 1999.

The Governor conditionally vetoed S-402, sponsored by Senator Robert Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Guy Gregg and Scott Garrett (both R-Sussex/Hunterdon/Morris), which would expand the authority of fire police, who are members of volunteer companies, to control traffic and crowds at public events. The Governor recommended that the bill be modified to clarify that duly authorized police officers would have supervisory authority over fire police in crowd control situations. A copy of the conditional veto is attached.

The Governor vetoed S-427, sponsored by Senator Peter A. Inverso (R-Mercer/

Middlesex) and Assembly Member Guy R. Gregg (R- Sussex), which would have exempted automated car washes from sales and use tax. Automated car washes, as defined in the bill, accept either currency or coins without assistance from a human being. The Governor vetoed the bill citing that this case was not one which necessitated a special exemption from the sales tax. A copy of the Governor's veto message is attached.