



**SENATE:** No

**FLOOR AMENDMENT STATEMENTS:** No

**LEGISLATIVE FISCAL ESTIMATE:** [Yes](#)

**VETO MESSAGE:** No

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

P.L. 1999, CHAPTER 322, *approved January 6, 2000*  
Senate Committee Substitute (*First Reprint*) for  
Senate, No. 1613

1 AN ACT concerning heating oil tanks, and amending P.L.1986, c.102  
2 and P.L.1991, c.123.

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  
15 any means of hazardous substances from an underground storage tank  
16 into 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

**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:**

**<sup>1</sup> Assembly floor amendments adopted December 9, 1999.**

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

1 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);

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

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

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

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

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

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

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

31 r. "Unregulated heating oil tank" means any one or combination of  
32 tanks, including appurtenant pipes, lines, fixtures, and other related  
33 equipment, used to contain an accumulation of heating oil for on-site  
34 consumption in a residential <sup>1</sup>[or nonresidential]<sup>1</sup> building, <sup>1</sup>or those  
35 tanks with a capacity of 2,000 gallons or less used to store heating oil  
36 for on-site consumption in a nonresidential building,<sup>1</sup> the volume of  
37 which, including the volume of the appurtenant pipes, lines, fixtures  
38 and other related equipment, is 10% or more below the ground.

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

40

41 2. Section 1 of P.L.1991, c.123 (C.58:10A-24.1) is amended to  
42 read as follows:

43 1. a. Except as provided in subsection b. of this section, a person  
44 shall not perform, except in accordance with the provisions of this act,  
45 tank services on an underground storage tank at an underground  
46 storage tank site required for purposes of complying with the

1 provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), including, but  
2 not limited to, tank testing, tank installation, tank removal, tank repair,  
3 installation of monitoring systems, and subsurface evaluations for  
4 corrective action, closure, and corrosivity. Except as provided in  
5 subsection b. of this section, a person shall not perform, except in  
6 compliance with the provisions of this act, tank testing, tank  
7 installation, tank removal, tank closure, or subsurface evaluations for  
8 corrective action, closure or corrosivity on an unregulated heating oil  
9 tank. Routine maintenance performed on appurtenant pipes, lines,  
10 fixtures, and other related equipment on an unregulated heating oil  
11 tank may be performed by a person who is not certified pursuant to  
12 section 3 of P.L.1991, c.123 (C.58:10A-24.3).

13 b. Subsection a. of this section shall not apply to a person  
14 performing tank closure on an underground storage tank <sup>1</sup>located on  
15 a farm<sup>1</sup> or an unregulated heating oil tank located on a farm. A person  
16 performing tank closure on an underground storage tank <sup>1</sup>located on  
17 a farm<sup>1</sup> or an unregulated heating oil tank located on a farm shall  
18 comply with the guidelines and the criteria established pursuant to  
19 subsection c. of this section. For the purposes of this section, "farm"  
20 shall mean land that qualifies for a special tax assessment pursuant to  
21 the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1  
22 et seq.), or any land less than five acres in area that would otherwise  
23 qualify for that farmland assessment and that has produced agricultural  
24 or horticultural products with a wholesale value of \$10,000 or more  
25 annually for at least the two successive years immediately preceding  
26 the year in which the tank removal is performed.

27 c. Within 90 days of the effective date of P.L.1997, c.430, the  
28 department shall implement guidelines establishing a protocol for the  
29 performance of tank closures on a farm. Within 18 months of the  
30 effective date of P.L.1997, c.430, the Department of Environmental  
31 Protection, in consultation with the Department of Agriculture and the  
32 State Soil Conservation Committee, shall, pursuant to the  
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
34 seq.), adopt criteria for the performance of tank closures on farms.  
35 Both the guidelines and the criteria shall be developed with the  
36 objectives of reducing the cost and increasing the efficiency of the  
37 process of tank closure while also ensuring environmental protection  
38 and public safety.

39 (cf: P.L.1997, c.430, s.1)

40

41 3. Section 2 of P.L.1991, c.123 (C.58:10A-24.2) is amended to  
42 read as follows:

43 2. a. A business firm shall not engage in the business of performing  
44 services on underground storage tanks at underground storage tank  
45 sites for purposes of complying with the requirements of P.L.1986,  
46 c.102 (C.58:10A-21 et seq.), or tank testing, tank installation, tank

1 removal, tank closure, or subsurface evaluations for corrective action,  
2 closure or corrosivity on an unregulated heating oil tank, unless the  
3 business firm has been certified in accordance with section 3 of  
4 P.L.1991, c.123 (C.58:10A-24.3), by certification of the owner, or, in  
5 the case of partnership, a partner in the firm, or, in the case of a  
6 corporation, an executive officer of the corporation.

7 b. Except as provided pursuant to subsection b. of section 1 of  
8 P.L.1991, c.123 (C.58:10A-24.1), any service performed on an  
9 underground storage tank at an underground storage tank site for the  
10 purpose of complying with the provisions of P.L.1986, c.102  
11 (C.58:10A-21 et seq.), or tank testing, tank installation, tank removal,  
12 tank closure, or subsurface evaluations for corrective action, closure  
13 or corrosivity on an unregulated heating oil tank, shall be performed  
14 by, or under the immediate on-site supervision of, a person certified by  
15 the department in accordance with section 3 of P.L.1991, c.123  
16 (C.58:10A-24.3).

17 c. A business firm or other person performing well drilling or pump  
18 installation services at the site of an underground storage tank or an  
19 unregulated heating oil tank who is licensed to perform such services  
20 pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11), shall not be  
21 required to be certified pursuant to section 3 of P.L.1991, c.123  
22 (C.58:10A-24.3), or to perform those services under the supervision  
23 of a person certified thereunder.

24 d. Professional engineers licensed pursuant to P.L.1938, c.342  
25 (C.45:8-27 et seq.) shall be exempt from the certification requirements  
26 of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from the  
27 payment of a recertification or renewal fee required pursuant to  
28 section 4 of that act (C.58:10A:24.4), but shall be required to obtain  
29 a certification card issued by the department at no charge and to make  
30 the card available for inspection by a State or local official when  
31 performing tank services on an underground storage tank at an  
32 underground storage tank site or on an unregulated heating oil tank .  
33 Professional engineers exempt pursuant to this subsection shall be  
34 required to attend a department approved training course on the  
35 department's rules and regulations concerning underground storage  
36 tanks within one year of certification or recertification.

37 e. A plumbing contractor, as defined pursuant to section 2 of  
38 P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair,  
39 testing, or closure of a waste oil underground storage tank shall be  
40 exempt from the certification requirements of section 3 of P.L.1991,  
41 c.123 (C.58:10A-24.3) and from payment of a recertification or  
42 renewal fee required pursuant to section 4 of that act  
43 (C.58:10A-24.4), but shall be required to obtain a certification card  
44 issued by the department at no charge and to make the card available  
45 for inspection by a State or local official when performing tank  
46 services on an underground storage tank. Plumbing contractors

1 exempt pursuant to this subsection shall be required to attend a  
2 department approved training course on the department's rules and  
3 regulations concerning underground storage tanks within one year of  
4 certification or recertification. A plumbing contractor engaged in the  
5 installation, repair, testing, or closure of an unregulated heating oil  
6 tank or an underground storage tank that is not a waste oil tank shall  
7 be required to comply with section 3 of P.L.1991, c.123  
8 (C.58:10A-24.3).  
9 (cf: P.L.1997, c.430, s.2)

10  
11 4. Section 3 of P.L.1991, c.123 (C.58:10A-24.3) is amended to  
12 read as follows:

13 3. a. The department shall establish and conduct examinations for  
14 certifying that a person is qualified to perform services on  
15 underground storage tanks at underground storage tank sites for  
16 purposes of complying with the provisions of P.L.1986, c.102  
17 (C.58:10A-21 et seq.) and for tank testing, tank installation, tank  
18 removal, tank closure, or subsurface evaluations for corrective action,  
19 closure or corrosivity on unregulated heating oil tanks. Application to  
20 the department for examination for certification shall be made in a  
21 manner and on such forms as may be prescribed by the department.  
22 The department may prescribe training or continuing education,  
23 experience or other requirements as a condition for taking a  
24 certification examination, or for recertification. The filing of an  
25 application shall be accompanied by a nonrecoverable application fee  
26 of \$35.00 to cover the costs of processing the application and  
27 conducting examinations. No person shall be certified by the  
28 department unless he or she satisfactorily completes the examination  
29 and satisfies any other requirements of this act, or of the department  
30 adopted pursuant thereto.

31 b. Notwithstanding the provisions of subsection a. of this section,  
32 any person who files, within 300 days of the effective date of this act,  
33 an application for certification under this subsection, and demonstrates  
34 to the department that he or she has adequately performed services on  
35 underground storage tanks at underground storage tank sites for at  
36 least five consecutive years immediately preceding the filing of the  
37 application, shall be certified without examination upon payment of an  
38 application and certification fee. Within one year of certification, a  
39 person certified pursuant to this subsection shall submit to the  
40 department evidence of attendance at a department approved training  
41 course on the department's rules and regulations concerning  
42 underground storage tanks. One year from the effective date of this  
43 act, no person applying for certification pursuant to this subsection  
44 shall perform services requiring certification until certified by the  
45 department.

46 c. A person certified pursuant to subsection b. of this section shall



1 comply with the examination and other requirements adopted by the  
2 department pursuant to subsection a. of this section as a precondition  
3 for filing for a renewal of a certification issued pursuant to subsection  
4 b. of this section.

5 d. The department may establish a general certification for tank  
6 services and on-site supervisory responsibilities, and such other classes  
7 of certification for particular tank services or for on-site supervisory  
8 responsibilities as it deems appropriate, and may establish separate  
9 training, examination and working experience requirements therefor.  
10 The department shall establish a separate certification for tank testing,  
11 tank installation, tank removal, tank closure, and subsurface  
12 evaluations for corrective action, closure or corrosivity on unregulated  
13 heating oil tanks with separate training and examination requirements  
14 therefor. Any person certified to perform services on underground  
15 storage tanks at underground storage tank sites for purposes of  
16 complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et  
17 seq.) shall not be required to obtain a separate certification to perform  
18 work on unregulated heating oil tanks.  
19 (cf: P.L.1991, c.123, s.3)

20  
21 5. Section 4 of P.L.1991, c.123 (C.58:10A-24.4) is amended to  
22 read as follows:

23 4. a. Certification shall be for a three-year period. Renewal of a  
24 certification, or recertification, shall be made to the department at least  
25 60 days prior to the expiration date of the certification, and shall be  
26 accompanied by evidence of attendance at a department approved  
27 training course, within the preceding 12 months, on the department's  
28 rules and regulations concerning underground storage tanks or on tank  
29 testing, tank installation, tank removal, tank closure, or subsurface  
30 evaluations for corrective action, closure or corrosivity on  
31 unregulated heating oil tanks. Certification shall not be transferable.  
32 No certification or recertification shall be issued until a certification  
33 fee of \$250.00 has been paid in full to the department. Application and  
34 certification fees shall be in an amount sufficient to cover the costs to  
35 the department of administering and enforcing the provisions of this  
36 act and may be adjusted by the department through the adoption of  
37 rules and regulations pursuant to the "Administrative Procedure Act,"  
38 P.L.1968, c.410 (C.52:14B-1 et seq.). A person shall have 90 days  
39 from the expiration date of a certification to renew an expired  
40 certification, after which date the person shall be required to apply for  
41 a new certification. The 90-day grace period shall not entitle a person  
42 to perform any services for which certification is required.

43 b. As a condition of certification or recertification, a business firm  
44 shall be required to provide the department with evidence of financial  
45 responsibility for the performance of services provided pursuant to  
46 P.L.1986, c.102 (C.58:10A-21 et seq.) , for the performance of tank

1 testing, tank installation, tank removal, tank closure, or subsurface  
2 evaluations for corrective action, closure or corrosivity on  
3 unregulated heating oil tanks, and for the cleanup or mitigation of a  
4 hazardous substance discharge resulting from the performance of such  
5 services. Financial responsibility shall be in an amount to be  
6 determined by the department but in no case less than \$250,000.  
7 Financial responsibility may be in the form of insurance, a surety bond,  
8 letter of credit, or other security posted with the department, or  
9 self-insurance, as may be prescribed by the department. If the financial  
10 responsibility is in the form of insurance, a surety bond, or similar  
11 device, the business firm shall promptly notify the department of any  
12 cancellation or change in coverage. Financial responsibility in the  
13 amount and form required by the department shall be maintained for  
14 the term of certification by the business firm.

15 A copy of the certification shall be conspicuously displayed for  
16 public review in the business office of a firm engaged in tank testing,  
17 tank installation, tank removal, tank closure, or subsurface evaluations  
18 for corrective action, closure or corrosivity on unregulated heating oil  
19 tanks or engaged in providing services for underground storage tanks  
20 at underground storage tank sites. If a firm maintains a business office  
21 at more than one location, the certification shall be conspicuously  
22 displayed at each location.

23 (cf: P.L.1991, c.123, s.4)

24

25 6. Section 5 of P.L.1991, c.123 (C.58:10A-24.5) is amended to  
26 read as follows:

27 5. a. The department may deny, suspend, revoke, or refuse to  
28 renew a certification for good cause, including:

29 (1) a violation, or abetting another to commit a violation, of any  
30 provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or  
31 rule or regulation adopted, or order issued under either act;

32 (2) making a false statement on an application for certification or  
33 other information required by the department pursuant to this act, or  
34 P.L.1986, c.102;

35 (3) misrepresentation or the use of fraud in obtaining certification  
36 or performing tank testing, tank installation, tank removal, tank  
37 closure, or subsurface evaluations for corrective action, closure or  
38 corrosivity on an unregulated heating oil tank or performing  
39 underground storage tank services.

40 b. Before suspending, revoking, or refusing to renew a  
41 certification, the department shall afford the applicant or certificate  
42 holder an opportunity to be heard in accordance with the provisions of  
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.).

45 c. Suspension, revocation, or refusal to renew a certification shall  
46 not bar the department from pursuing against the applicant or

1 certificate holder any other lawful remedy available to the department.

2 d. Any business firm or person whose certification is revoked shall  
3 be ineligible to apply for certification for three years from the date of  
4 the revocation.

5 e. If the department has reason to believe that a condition exists  
6 that poses an imminent threat to the public health, safety or welfare,  
7 it may order the certificate holder to cease operations pending the  
8 outcome of the hearing.

9 (cf: P.L.1991, c.123, s.5)

10

11 7. (New section) The Department of Environmental Protection  
12 shall, within 120 days of the effective date of this section, establish  
13 guidelines to implement the provisions of this act, and shall, within  
14 180 days of the effective date of this section, establish rules and  
15 regulations for such implementation.

16

17 8. Section 7 of this act shall take effect immediately and the  
18 remainder of this act shall take effect 180 days after enactment.

19

20

21

22

23 Requires DEP certification to perform certain services on unregulated  
24 heating oil tanks.

# SENATE, No. 1613

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JANUARY 7, 1999

**Sponsored by:**

**Senator C. LOUIS BASSANO**

**District 21 (Essex and Union)**

**Senator HENRY P. MCNAMARA**

**District 40 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Vitale**

**SYNOPSIS**

Requires DEP certification to perform services on underground home heating oil tanks.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning heating oil tanks, and amending P.L.1986, c.102  
2 and P.L.1991, c.123.

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  
8 read as follows:

9 2. As used in this act:

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

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

14 c. "Discharge" means the intentional or unintentional release by  
15 any means of hazardous substances from an underground storage tank  
16 into 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;
- 38 (3) Tanks used to store heating oil for on-site consumption in a  
39 residential building;
- 40 (4) Septic tanks installed in compliance with regulations adopted  
41 by the department pursuant to "The Realty Improvement Sewerage  
42 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);
- 43 (5) Pipelines, including gathering lines, regulated under the  
44 "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C.  
45 s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979,"  
46 Pub.L.96-129 (49 U.S.C. s.2001 et seq.), or intrastate pipelines

1 regulated under State law;

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

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

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

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

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

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

26 r. "Residential tank" means any any one or combination of tanks,  
27 including appurtenant pipes, lines, fixtures, and other related  
28 equipment, used to contain an accumulation of heating oil for on-site  
29 consumption in a residential building, the volume of which, including  
30 the volume of the appurtenant pipes, lines, fixtures and other related  
31 equipment, is 10% or more below the ground.

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

33

34 2. Section 1 of P.L.1991, c.123 (C.58:10A-24.1) is amended to  
35 read as follows:

36 1. a. Except as provided in subsection b. of this section, a person  
37 shall not perform, except in accordance with the provisions of this act,  
38 tank services on an underground storage tank at an underground  
39 storage tank site required for purposes of complying with the  
40 provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), or tank services  
41 on a residential tank, including, but not limited to, tank testing, tank  
42 installation, tank removal, tank repair, installation of monitoring  
43 systems, and subsurface evaluations for corrective action, closure, and  
44 corrosivity.

45 b. Subsection a. of this section shall not apply to a person  
46 performing tank closure on an underground storage tank located on a

1 farm. A person performing tank closure on an underground storage  
2 tank located on a farm shall comply with the guidelines and the criteria  
3 established pursuant to subsection c. of this section. For the purposes  
4 of this section, "farm" shall mean land that qualifies for a special tax  
5 assessment pursuant to the "Farmland Assessment Act of 1964,"  
6 P.L.1964, c.48 (C.54:4-23.1 et seq.), or any land less than five acres  
7 in area that would otherwise qualify for that farmland assessment and  
8 that has produced agricultural or horticultural products with a  
9 wholesale value of \$10,000 or more annually for at least the two  
10 successive years immediately preceding the year in which the tank  
11 removal is performed.

12 c. Within 90 days of the effective date of P.L.1997, c.430, the  
13 department shall implement guidelines establishing a protocol for the  
14 performance of tank closures on a farm. Within 18 months of the  
15 effective date of P.L.1997, c.430, the Department of Environmental  
16 Protection, in consultation with the Department of Agriculture and the  
17 State Soil Conservation Committee, shall, pursuant to the  
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.), adopt criteria for the performance of tank closures on farms.  
20 Both the guidelines and the criteria shall be developed with the  
21 objectives of reducing the cost and increasing the efficiency of the  
22 process of tank closure while also ensuring environmental protection  
23 and public safety.

24 (cf: P.L.1997, c.430, s.1)

25

26 3. Section 2 of P.L.1991, c.123 (C.58:10A-24.2) is amended to  
27 read as follows:

28 2. a. A business firm shall not engage in the business of performing  
29 services on underground storage tanks at underground storage tank  
30 sites for purposes of complying with the requirements of P.L.1986,  
31 c.102 (C.58:10A-21 et seq.) , or on residential tanks, unless the  
32 business firm has been certified in accordance with section 3 of  
33 P.L.1991, c.123 (C.58:10A-24.3), by certification of the owner, or, in  
34 the case of partnership, a partner in the firm, or, in the case of a  
35 corporation, an executive officer of the corporation.

36 b. Except as provided pursuant to subsection b. of section 1 of  
37 P.L.1991, c.123 (C.58:10A-24.1), any service performed on an  
38 underground storage tank at an underground storage tank site for the  
39 purpose of complying with the provisions of P.L.1986, c.102  
40 (C.58:10A-21 et seq.), or on a residential tank, shall be performed by,  
41 or under the immediate on-site supervision of, a person certified by the  
42 department in accordance with section 3 of P.L.1991, c.123  
43 (C.58:10A-24.3).

44 c. A business firm or other person performing well drilling or  
45 pump installation services at the site of an underground storage tank  
46 or a residential tank who is licensed to perform such services pursuant



1 to section 7 of P.L.1947, c.377 (C.58:4A-11), shall not be required to  
2 be certified pursuant to section 3 of P.L.1991, c.123 (C.58:10A-24.3),  
3 or to perform those services under the supervision of a person certified  
4 thereunder.

5 d. Professional engineers licensed pursuant to P.L.1938, c.342  
6 (C.45:8-27 et seq.) shall be exempt from the certification requirements  
7 of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from the  
8 payment of a recertification or renewal fee required pursuant to  
9 section 4 of that act (C.58:10A:24.4), but shall be required to obtain  
10 a certification card issued by the department at no charge and to make  
11 the card available for inspection by a State or local official when  
12 performing tank services on an underground storage tank at an  
13 underground storage tank site or on a residential tank . Professional  
14 engineers exempt pursuant to this subsection shall be required to  
15 attend a department approved training course on the department's  
16 rules and regulations concerning underground storage tanks within one  
17 year of certification or recertification.

18 e. A plumbing contractor, as defined pursuant to section 2 of  
19 P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair,  
20 testing, or closure of a waste oil underground storage tank shall be  
21 exempt from the certification requirements of section 3 of P.L.1991,  
22 c.123 (C.58:10A-24.3) and from payment of a recertification or  
23 renewal fee required pursuant to section 4 of that act  
24 (C.58:10A-24.4), but shall be required to obtain a certification card  
25 issued by the department at no charge and to make the card available  
26 for inspection by a State or local official when performing tank  
27 services on an underground storage tank or a residential tank.  
28 Plumbing contractors exempt pursuant to this subsection shall be  
29 required to attend a department approved training course on the  
30 department's rules and regulations concerning underground storage  
31 tanks within one year of certification or recertification. A plumbing  
32 contractor engaged in the installation, repair, testing, or closure of a  
33 residential tank or an underground storage tank that is not a waste oil  
34 tank shall be required to comply with section 3 of P.L.1991, c.123  
35 (C.58:10A-24.3).

36 (cf: P.L.1997, c.430, s.2)

37

38 4. Section 3 of P.L.1991, c.123 (C.58:10A-24.3) is amended to  
39 read as follows:

40 3. a. The department shall establish and conduct examinations for  
41 certifying that a person is qualified to perform services on residential  
42 tanks or on underground storage tanks at underground storage tank  
43 sites for purposes of complying with the provisions of P.L.1986, c.102  
44 (C.58:10A-21 et seq.) . Application to the department for examination  
45 for certification shall be made in a manner and on such forms as may  
46 be prescribed by the department. The department may prescribe

1 training or continuing education, experience or other requirements as  
2 a condition for taking a certification examination, or for  
3 recertification. The filing of an application shall be accompanied by a  
4 nonrecoverable application fee of \$35.00 to cover the costs of  
5 processing the application and conducting examinations. No person  
6 shall be certified by the department unless he or she satisfactorily  
7 completes the examination and satisfies any other requirements of this  
8 act, or of the department adopted pursuant thereto.

9 b. Notwithstanding the provisions of subsection a. of this section,  
10 any person who files, within 300 days of the effective date of this act,  
11 an application for certification under this subsection, and demonstrates  
12 to the department that he or she has adequately performed services on  
13 underground storage tanks at underground storage tank sites for at  
14 least five consecutive years immediately preceding the filing of the  
15 application, shall be certified without examination upon payment of an  
16 application and certification fee. Within one year of certification, a  
17 person certified pursuant to this subsection shall submit to the  
18 department evidence of attendance at a department approved training  
19 course on the department's rules and regulations concerning  
20 underground storage tanks. One year from the effective date of this  
21 act, no person applying for certification pursuant to this subsection  
22 shall perform services requiring certification until certified by the  
23 department.

24 c. A person certified pursuant to subsection b. of this section shall  
25 comply with the examination and other requirements adopted by the  
26 department pursuant to subsection a. of this section as a precondition  
27 for filing for a renewal of a certification issued pursuant to subsection  
28 b. of this section.

29 d. The department may establish a general certification for tank  
30 services and on-site supervisory responsibilities, and such other classes  
31 of certification for particular tank services , for residential tank  
32 services, or for on-site supervisory responsibilities as it deems  
33 appropriate, and may establish separate training, examination and  
34 working experience requirements therefor.

35 (cf: P.L.1991, c.123, s.3)

36

37 5. Section 4 of P.L.1991, c.123 (C.58:10A-24.4) is amended to  
38 read as follows:

39 4. a. Certification shall be for a three-year period. Renewal of a  
40 certification, or recertification, shall be made to the department at least  
41 60 days prior to the expiration date of the certification, and shall be  
42 accompanied by evidence of attendance at a department approved  
43 training course, within the preceding 12 months, on the department's  
44 rules and regulations concerning underground storage tanks.  
45 Certification shall not be transferable. No certification or  
46 recertification shall be issued until a certification fee of \$250.00 has

1 been paid in full to the department. Application and certification fees  
2 shall be in an amount sufficient to cover the costs to the department  
3 of administering and enforcing the provisions of this act and may be  
4 adjusted by the department through the adoption of rules and  
5 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
6 c.410 (C.52:14B-1 et seq.). A person shall have 90 days from the  
7 expiration date of a certification to renew an expired certification,  
8 after which date the person shall be required to apply for a new  
9 certification. The 90-day grace period shall not entitle a person to  
10 perform any services for which certification is required.

11 b. As a condition of certification or recertification, a business firm  
12 shall be required to provide the department with evidence of financial  
13 responsibility for the performance of services provided pursuant to  
14 P.L.1986, c.102 (C.58:10A-21 et seq.) , for the performance of  
15 services on residential tanks, and for the cleanup or mitigation of a  
16 hazardous substance discharge resulting from the performance of such  
17 services. Financial responsibility shall be in an amount to be  
18 determined by the department but in no case less than \$250,000.  
19 Financial responsibility may be in the form of insurance, a surety bond,  
20 letter of credit, or other security posted with the department, or  
21 self-insurance, as may be prescribed by the department. If the financial  
22 responsibility is in the form of insurance, a surety bond, or similar  
23 device, the business firm shall promptly notify the department of any  
24 cancellation or change in coverage. Financial responsibility in the  
25 amount and form required by the department shall be maintained for  
26 the term of certification by the business firm.

27 A copy of the certification shall be conspicuously displayed for  
28 public review in the business office of a firm engaged in providing  
29 services for underground storage tanks at underground storage tank  
30 sites or for residential tanks. If a firm maintains a business office at  
31 more than one location, the certification shall be conspicuously  
32 displayed at each location.

33 (cf: P.L.1991, c.123, s.4)

34

35 6. Section 5 of P.L.1991, c.123 (C.58:10A-24.5) is amended to  
36 read as follows:

37 5. a. The department may deny, suspend, revoke, or refuse to  
38 renew a certification for good cause, including:

39 (1) a violation, or abetting another to commit a violation, of any  
40 provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or  
41 rule or regulation adopted, or order issued under either act;

42 (2) making a false statement on an application for certification or  
43 other information required by the department pursuant to this act, or  
44 P.L.1986, c.102;

45 (3) misrepresentation or the use of fraud in obtaining certification  
46 or performing residential tank or underground storage tank services.

1     b. Before suspending, revoking, or refusing to renew a  
2 certification, the department shall afford the applicant or certificate  
3 holder an opportunity to be heard in accordance with the provisions of  
4 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
5 seq.).

6     c. Suspension, revocation, or refusal to renew a certification shall  
7 not bar the department from pursuing against the applicant or  
8 certificate holder any other lawful remedy available to the department.

9     d. Any business firm or person whose certification is revoked shall  
10 be ineligible to apply for certification for three years from the date of  
11 the revocation.

12     e. If the department has reason to believe that a condition exists  
13 that poses an imminent threat to the public health, safety or welfare,  
14 it may order the certificate holder to cease operations pending the  
15 outcome of the hearing.

16 (cf: P.L.1991, c.123, s.5)

17

18     7. This act shall take effect 90 days following enactment.

19

20

21

#### STATEMENT

22

23     This bill would require certification for a person who performs  
24 services on underground residential heating oil tanks. Currently, any  
25 person who performs services on underground storage tanks that are  
26 regulated by the Department of Environmental Protection must be  
27 certified. This bill would require that certification to be held by  
28 persons that perform similar services for underground residential  
29 heating oil tanks.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1613**

**STATE OF NEW JERSEY**

DATED: MAY 6, 1999

The Senate Environment Committee favorably reports a committee substitute for Senate Bill No. 1613.

This committee substitute would require, within 180 days of enactment, certification for a person who performs tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated underground heating oil tanks. A certification would not be required for persons who repair or perform routine maintenance on unregulated heating oil tanks. Currently, any person who performs services on underground storage tanks that are regulated by the Department of Environmental Protection must be certified. The committee substitute would require the department to establish a separate certification for persons to work on unregulated heating oil tanks only but would not require a person who obtains the certification to perform work on regulated tanks to obtain any additional certification.

The department is required to adopt guidelines to implement this act within 120 days of enactment and to adopt rules and regulations within 180 days of enactment.

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1613**

with Assembly Floor Amendments  
(Proposed By Assemblyman ROONEY)

ADOPTED: DECEMBER 9, 1999

These amendments correct the definition of "unregulated heating oil tank" to exclude already regulated tanks. Existing law provides that only certified contractors may perform work on tanks used to store heating oil for on-site consumption in a nonresidential building with a capacity greater than 2,000 gallons. In addition, the amendments clarify that underground storage tanks located on a farm are not covered by the provisions of this bill.

These amendments would make S1613 SCS identical to A3156 (1R).

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 1613**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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ADOPTED MAY 6, 1999

**Sponsored by:**

**Senator C. LOUIS BASSANO**  
**District 21 (Essex and Union)**  
**Senator HENRY P. MCNAMARA**  
**District 40 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Vitale**

**SYNOPSIS**

Requires DEP certification to perform certain services on unregulated heating oil tanks.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Environment Committee.



1 AN ACT concerning heating oil tanks, and amending P.L.1986, c.102  
2 and P.L.1991, c.123.

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  
15 any means of hazardous substances from an underground storage tank  
16 into 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

**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 conjunction with an underground storage tank, or a facility,  
2 conforming to criteria established pursuant to section 5 of this act;
- 3 h. "Nonoperational storage tank" means any underground storage  
4 tank in which hazardous substances are not contained, or from which  
5 hazardous substances are not dispensed;
- 6 i. "Operator" means any person in control of, or having  
7 responsibility for, the daily operation of a facility;
- 8 j. "Owner" means any person who owns a facility, or in the case  
9 of a nonoperational storage tank, the person who owned the  
10 nonoperational storage tank immediately prior to the discontinuation  
11 of its use;
- 12 k. "Person" means any individual, partnership, company,  
13 corporation, consortium, joint venture, commercial or any other legal  
14 entity, the State of New Jersey, or the United States Government;
- 15 l. "Residential building" means a single and multi-family dwelling,  
16 nursing home, trailer, condominium, boarding house, apartment house,  
17 or other structure designed primarily for use as a dwelling;
- 18 m. "Secondary containment" means an additional layer of  
19 impervious material creating a space wherein a leak of hazardous  
20 substances from an underground storage tank may be detected before  
21 it enters the environment;
- 22 n. "Substantially modify" means construction at, or restoration,  
23 refurbishment or renovation of, an existing facility which increases or  
24 decreases the in-place storage capacity of the facility or alters the  
25 physical configuration or impairs or affects the physical integrity of the  
26 facility or its monitoring systems;
- 27 o. "Test" or "testing" means the testing of underground storage  
28 tanks in accordance with standards adopted by the department;
- 29 p. "Underground storage tank" means any one or combination of  
30 tanks, including appurtenant pipes, lines, fixtures, and other related  
31 equipment, used to contain an accumulation of hazardous substances,  
32 the volume of which, including the volume of the appurtenant pipes,  
33 lines, fixtures and other related equipment, is 10% or more below the  
34 ground. "Underground storage tank" shall not include:
- 35 (1) Farm or residential tanks of 1,100 gallons or less capacity used  
36 for storing motor fuel for noncommercial purposes;
- 37 (2) Tanks used to store heating oil for on-site consumption in a  
38 nonresidential building with a capacity of 2,000 gallons or less;
- 39 (3) Tanks used to store heating oil for on-site consumption in a  
40 residential building;
- 41 (4) Septic tanks installed in compliance with regulations adopted  
42 by the department pursuant to "The Realty Improvement Sewerage  
43 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);
- 44 (5) Pipelines, including gathering lines, regulated under the  
45 "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C.  
46 s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979,"

1 Pub.L.96-129 (49 U.S.C. s.2001 et seq.), or intrastate pipelines  
2 regulated under State law;

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

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

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

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

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

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

27 r. "Unregulated heating oil tank" means any one or combination of  
28 tanks, including appurtenant pipes, lines, fixtures, and other related  
29 equipment, used to contain an accumulation of heating oil for on-site  
30 consumption in a residential or nonresidential building, the volume of  
31 which, including the volume of the appurtenant pipes, lines, fixtures  
32 and other related equipment, is 10% or more below the ground.

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

34

35 2. Section 1 of P.L.1991, c.123 (C.58:10A-24.1) is amended to  
36 read as follows:

37 1. a. Except as provided in subsection b. of this section, a person  
38 shall not perform, except in accordance with the provisions of this act,  
39 tank services on an underground storage tank at an underground  
40 storage tank site required for purposes of complying with the  
41 provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), including, but  
42 not limited to, tank testing, tank installation, tank removal, tank repair,  
43 installation of monitoring systems, and subsurface evaluations for  
44 corrective action, closure, and corrosivity. Except as provided in  
45 subsection b. of this section, a person shall not perform, except in  
46 compliance with the provisions of this act, tank testing, tank

1 installation, tank removal, tank closure, or subsurface evaluations for  
2 corrective action, closure or corrosivity on an unregulated heating oil  
3 tank. Routine maintenance performed on appurtenant pipes, lines,  
4 fixtures, and other related equipment on an unregulated heating oil  
5 tank may be performed by a person who is not certified pursuant to  
6 section 3 of P.L.1991, c.123 (C.58:10A-24.3).

7 b. Subsection a. of this section shall not apply to a person  
8 performing tank closure on an underground storage tank or an  
9 unregulated heating oil tank located on a farm. A person performing  
10 tank closure on an underground storage tank or an unregulated heating  
11 oil tank located on a farm shall comply with the guidelines and the  
12 criteria established pursuant to subsection c. of this section. For the  
13 purposes of this section, "farm" shall mean land that qualifies for a  
14 special tax assessment pursuant to the "Farmland Assessment Act of  
15 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or any land less than five  
16 acres in area that would otherwise qualify for that farmland assessment  
17 and that has produced agricultural or horticultural products with a  
18 wholesale value of \$10,000 or more annually for at least the two  
19 successive years immediately preceding the year in which the tank  
20 removal is performed.

21 c. Within 90 days of the effective date of P.L.1997, c.430, the  
22 department shall implement guidelines establishing a protocol for the  
23 performance of tank closures on a farm. Within 18 months of the  
24 effective date of P.L.1997, c.430, the Department of Environmental  
25 Protection, in consultation with the Department of Agriculture and the  
26 State Soil Conservation Committee, shall, pursuant to the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), adopt criteria for the performance of tank closures on farms.  
29 Both the guidelines and the criteria shall be developed with the  
30 objectives of reducing the cost and increasing the efficiency of the  
31 process of tank closure while also ensuring environmental protection  
32 and public safety.

33 (cf: P.L.1997, c.430, s.1)

34  
35 3. Section 2 of P.L.1991, c.123 (C.58:10A-24.2) is amended to  
36 read as follows:

37 2. a. A business firm shall not engage in the business of performing  
38 services on underground storage tanks at underground storage tank  
39 sites for purposes of complying with the requirements of P.L.1986,  
40 c.102 (C.58:10A-21 et seq.) , or tank testing, tank installation, tank  
41 removal, tank closure, or subsurface evaluations for corrective action,  
42 closure or corrosivity on an unregulated heating oil tank, unless the  
43 business firm has been certified in accordance with section 3 of  
44 P.L.1991, c.123 (C.58:10A-24.3), by certification of the owner, or, in  
45 the case of partnership, a partner in the firm, or, in the case of a  
46 corporation, an executive officer of the corporation.

1 b. Except as provided pursuant to subsection b. of section 1 of  
2 P.L.1991, c.123 (C.58:10A-24.1), any service performed on an  
3 underground storage tank at an underground storage tank site for the  
4 purpose of complying with the provisions of P.L.1986, c.102  
5 (C.58:10A-21 et seq.), or tank testing, tank installation, tank removal,  
6 tank closure, or subsurface evaluations for corrective action, closure  
7 or corrosivity on an unregulated heating oil tank, shall be performed  
8 by, or under the immediate on-site supervision of, a person certified by  
9 the department in accordance with section 3 of P.L.1991, c.123  
10 (C.58:10A-24.3).

11 c. A business firm or other person performing well drilling or pump  
12 installation services at the site of an underground storage tank or an  
13 unregulated heating oil tank who is licensed to perform such services  
14 pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11), shall not be  
15 required to be certified pursuant to section 3 of P.L.1991, c.123  
16 (C.58:10A-24.3), or to perform those services under the supervision  
17 of a person certified thereunder.

18 d. Professional engineers licensed pursuant to P.L.1938, c.342  
19 (C.45:8-27 et seq.) shall be exempt from the certification requirements  
20 of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from the  
21 payment of a recertification or renewal fee required pursuant to  
22 section 4 of that act (C.58:10A:24.4), but shall be required to obtain  
23 a certification card issued by the department at no charge and to make  
24 the card available for inspection by a State or local official when  
25 performing tank services on an underground storage tank at an  
26 underground storage tank site or on an unregulated heating oil tank .  
27 Professional engineers exempt pursuant to this subsection shall be  
28 required to attend a department approved training course on the  
29 department's rules and regulations concerning underground storage  
30 tanks within one year of certification or recertification.

31 e. A plumbing contractor, as defined pursuant to section 2 of  
32 P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair,  
33 testing, or closure of a waste oil underground storage tank shall be  
34 exempt from the certification requirements of section 3 of P.L.1991,  
35 c.123 (C.58:10A-24.3) and from payment of a recertification or  
36 renewal fee required pursuant to section 4 of that act  
37 (C.58:10A-24.4), but shall be required to obtain a certification card  
38 issued by the department at no charge and to make the card available  
39 for inspection by a State or local official when performing tank  
40 services on an underground storage tank. Plumbing contractors  
41 exempt pursuant to this subsection shall be required to attend a  
42 department approved training course on the department's rules and  
43 regulations concerning underground storage tanks within one year of  
44 certification or recertification. A plumbing contractor engaged in the  
45 installation, repair, testing, or closure of an unregulated heating oil  
46 tank or an underground storage tank that is not a waste oil tank shall

1 be required to comply with section 3 of P.L.1991, c.123  
2 (C.58:10A-24.3).

3 (cf: P.L.1997, c.430, s.2)

4

5 4. Section 3 of P.L.1991, c.123 (C.58:10A-24.3) is amended to  
6 read as follows:

7 3. a. The department shall establish and conduct examinations for  
8 certifying that a person is qualified to perform services on  
9 underground storage tanks at underground storage tank sites for  
10 purposes of complying with the provisions of P.L.1986, c.102  
11 (C.58:10A-21 et seq.) and for tank testing, tank installation, tank  
12 removal, tank closure, or subsurface evaluations for corrective action,  
13 closure or corrosivity on unregulated heating oil tanks. Application to  
14 the department for examination for certification shall be made in a  
15 manner and on such forms as may be prescribed by the department.  
16 The department may prescribe training or continuing education,  
17 experience or other requirements as a condition for taking a  
18 certification examination, or for recertification. The filing of an  
19 application shall be accompanied by a nonrecoverable application fee  
20 of \$35.00 to cover the costs of processing the application and  
21 conducting examinations. No person shall be certified by the  
22 department unless he or she satisfactorily completes the examination  
23 and satisfies any other requirements of this act, or of the department  
24 adopted pursuant thereto.

25 b. Notwithstanding the provisions of subsection a. of this section,  
26 any person who files, within 300 days of the effective date of this act,  
27 an application for certification under this subsection, and demonstrates  
28 to the department that he or she has adequately performed services on  
29 underground storage tanks at underground storage tank sites for at  
30 least five consecutive years immediately preceding the filing of the  
31 application, shall be certified without examination upon payment of an  
32 application and certification fee. Within one year of certification, a  
33 person certified pursuant to this subsection shall submit to the  
34 department evidence of attendance at a department approved training  
35 course on the department's rules and regulations concerning  
36 underground storage tanks. One year from the effective date of this  
37 act, no person applying for certification pursuant to this subsection  
38 shall perform services requiring certification until certified by the  
39 department.

40 c. A person certified pursuant to subsection b. of this section shall  
41 comply with the examination and other requirements adopted by the  
42 department pursuant to subsection a. of this section as a precondition  
43 for filing for a renewal of a certification issued pursuant to subsection  
44 b. of this section.

45 d. The department may establish a general certification for tank  
46 services and on-site supervisory responsibilities, and such other classes

1 of certification for particular tank services or for on-site supervisory  
2 responsibilities as it deems appropriate, and may establish separate  
3 training, examination and working experience requirements therefor.  
4 The department shall establish a separate certification for tank testing,  
5 tank installation, tank removal, tank closure, and subsurface  
6 evaluations for corrective action, closure or corrosivity on unregulated  
7 heating oil tanks with separate training and examination requirements  
8 therefor. Any person certified to perform services on underground  
9 storage tanks at underground storage tank sites for purposes of  
10 complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et  
11 seq.) shall not be required to obtain a separate certification to perform  
12 work on unregulated heating oil tanks.

13 (cf: P.L.1991, c.123, s.3)

14

15 5. Section 4 of P.L.1991, c.123 (C.58:10A-24.4) is amended to  
16 read as follows:

17 4. a. Certification shall be for a three-year period. Renewal of a  
18 certification, or recertification, shall be made to the department at least  
19 60 days prior to the expiration date of the certification, and shall be  
20 accompanied by evidence of attendance at a department approved  
21 training course, within the preceding 12 months, on the department's  
22 rules and regulations concerning underground storage tanks or on tank  
23 testing, tank installation, tank removal, tank closure, or subsurface  
24 evaluations for corrective action, closure or corrosivity on  
25 unregulated heating oil tanks. Certification shall not be transferable.  
26 No certification or recertification shall be issued until a certification  
27 fee of \$250.00 has been paid in full to the department. Application and  
28 certification fees shall be in an amount sufficient to cover the costs to  
29 the department of administering and enforcing the provisions of this  
30 act and may be adjusted by the department through the adoption of  
31 rules and regulations pursuant to the "Administrative Procedure Act,"  
32 P.L.1968, c.410 (C.52:14B-1 et seq.). A person shall have 90 days  
33 from the expiration date of a certification to renew an expired  
34 certification, after which date the person shall be required to apply for  
35 a new certification. The 90-day grace period shall not entitle a person  
36 to perform any services for which certification is required.

37 b. As a condition of certification or recertification, a business firm  
38 shall be required to provide the department with evidence of financial  
39 responsibility for the performance of services provided pursuant to  
40 P.L.1986, c.102 (C.58:10A-21 et seq.) , for the performance of tank  
41 testing, tank installation, tank removal, tank closure, or subsurface  
42 evaluations for corrective action, closure or corrosivity on  
43 unregulated heating oil tanks, and for the cleanup or mitigation of a  
44 hazardous substance discharge resulting from the performance of such  
45 services. Financial responsibility shall be in an amount to be  
46 determined by the department but in no case less than \$250,000.

1 Financial responsibility may be in the form of insurance, a surety bond,  
2 letter of credit, or other security posted with the department, or  
3 self-insurance, as may be prescribed by the department. If the financial  
4 responsibility is in the form of insurance, a surety bond, or similar  
5 device, the business firm shall promptly notify the department of any  
6 cancellation or change in coverage. Financial responsibility in the  
7 amount and form required by the department shall be maintained for  
8 the term of certification by the business firm.

9 A copy of the certification shall be conspicuously displayed for  
10 public review in the business office of a firm engaged in tank testing,  
11 tank installation, tank removal, tank closure, or subsurface evaluations  
12 for corrective action, closure or corrosivity on unregulated heating oil  
13 tanks or engaged in providing services for underground storage tanks  
14 at underground storage tank sites. If a firm maintains a business office  
15 at more than one location, the certification shall be conspicuously  
16 displayed at each location.

17 (cf: P.L.1991, c.123, s.4)

18  
19 6. Section 5 of P.L.1991, c.123 (C.58:10A-24.5) is amended to  
20 read as follows:

21 5. a. The department may deny, suspend, revoke, or refuse to  
22 renew a certification for good cause, including:

23 (1) a violation, or abetting another to commit a violation, of any  
24 provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or  
25 rule or regulation adopted, or order issued under either act;

26 (2) making a false statement on an application for certification or  
27 other information required by the department pursuant to this act, or  
28 P.L.1986, c.102;

29 (3) misrepresentation or the use of fraud in obtaining certification  
30 or performing tank testing, tank installation, tank removal, tank  
31 closure, or subsurface evaluations for corrective action, closure or  
32 corrosivity on an unregulated heating oil tank or performing  
33 underground storage tank services.

34 b. Before suspending, revoking, or refusing to renew a  
35 certification, the department shall afford the applicant or certificate  
36 holder an opportunity to be heard in accordance with the provisions of  
37 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
38 seq.).

39 c. Suspension, revocation, or refusal to renew a certification shall  
40 not bar the department from pursuing against the applicant or  
41 certificate holder any other lawful remedy available to the department.

42 d. Any business firm or person whose certification is revoked shall  
43 be ineligible to apply for certification for three years from the date of  
44 the revocation.

45 e. If the department has reason to believe that a condition exists  
46 that poses an imminent threat to the public health, safety or welfare,

1 it may order the certificate holder to cease operations pending the  
2 outcome of the hearing.

3 (cf: P.L.1991, c.123, s.5)

4

5 7. (New section) The Department of Environmental Protection  
6 shall, within 120 days of the effective date of this section, establish  
7 guidelines to implement the provisions of this act, and shall, within  
8 180 days of the effective date of this section, establish rules and  
9 regulations for such implementation.

10

11 8. Section 7 of this act shall take effect immediately and the  
12 remainder of this act shall take effect 180 days after enactment.



# ASSEMBLY, No. 3156

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## STATE OF NEW JERSEY

### 208th LEGISLATURE

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INTRODUCED MAY 17, 1999

**Sponsored by:**

**Assemblyman JOHN E. ROONEY**

**District 39 (Bergen)**

**Assemblyman DAVID C. RUSSO**

**District 40 (Bergen and Passaic)**

**SYNOPSIS**

Requires DEP certification to perform certain services on unregulated heating oil tanks.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning heating oil tanks, and amending P.L.1986, c.102  
2 and P.L.1991, c.123.

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  
8 read as follows:

9 2. As used in this act:

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

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

14 c. "Discharge" means the intentional or unintentional release by  
15 any means of hazardous substances from an underground storage tank  
16 into 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 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;
- 38 (3) Tanks used to store heating oil for on-site consumption in a  
39 residential building;
- 40 (4) Septic tanks installed in compliance with regulations adopted  
41 by the department pursuant to "The Realty Improvement Sewerage  
42 and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.);
- 43 (5) Pipelines, including gathering lines, regulated under the  
44 "Natural Gas Pipeline Safety Act of 1968," Pub.L.90-481 (49 U.S.C.  
45 s.1671 et seq.), the "Hazardous Liquid Pipeline Safety Act of 1979,"  
46 Pub.L.96-129 (49 U.S.C. s.2001 et seq.), or intrastate pipelines

1 regulated under State law;

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

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

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

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

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

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

26 r. "Unregulated heating oil tank" means any one or combination of  
27 tanks, including appurtenant pipes, lines, fixtures, and other related  
28 equipment, used to contain an accumulation of heating oil for on-site  
29 consumption in a residential or nonresidential building, the volume of  
30 which, including the volume of the appurtenant pipes, lines, fixtures  
31 and other related equipment, is 10% or more below the ground.

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

33

34 2. Section 1 of P.L.1991, c.123 (C.58:10A-24.1) is amended to  
35 read as follows:

36 1. a. Except as provided in subsection b. of this section, a person  
37 shall not perform, except in accordance with the provisions of this act,  
38 tank services on an underground storage tank at an underground  
39 storage tank site required for purposes of complying with the  
40 provisions of P.L.1986, c.102 (C.58:10A-21 et seq.), including, but  
41 not limited to, tank testing, tank installation, tank removal, tank repair,  
42 installation of monitoring systems, and subsurface evaluations for  
43 corrective action, closure, and corrosivity. Except as provided in  
44 subsection b. of this section, a person shall not perform, except in  
45 compliance with the provisions of this act, tank testing, tank  
46 installation, tank removal, tank closure, or subsurface evaluations for

1 corrective action, closure or corrosivity on an unregulated heating oil  
2 tank. Routine maintenance performed on appurtenant pipes, lines,  
3 fixtures, and other related equipment on an unregulated heating oil  
4 tank may be performed by a person who is not certified pursuant to  
5 section 3 of P.L.1991, c.123 (C.58:10A-24.3).

6 b. Subsection a. of this section shall not apply to a person  
7 performing tank closure on an underground storage tank or an  
8 unregulated heating oil tank located on a farm. A person performing  
9 tank closure on an underground storage tank or an unregulated heating  
10 oil tank located on a farm shall comply with the guidelines and the  
11 criteria established pursuant to subsection c. of this section. For the  
12 purposes of this section, "farm" shall mean land that qualifies for a  
13 special tax assessment pursuant to the "Farmland Assessment Act of  
14 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or any land less than five  
15 acres in area that would otherwise qualify for that farmland assessment  
16 and that has produced agricultural or horticultural products with a  
17 wholesale value of \$10,000 or more annually for at least the two  
18 successive years immediately preceding the year in which the tank  
19 removal is performed.

20 c. Within 90 days of the effective date of P.L.1997, c.430, the  
21 department shall implement guidelines establishing a protocol for the  
22 performance of tank closures on a farm. Within 18 months of the  
23 effective date of P.L.1997, c.430, the Department of Environmental  
24 Protection, in consultation with the Department of Agriculture and the  
25 State Soil Conservation Committee, shall, pursuant to the  
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
27 seq.), adopt criteria for the performance of tank closures on farms.  
28 Both the guidelines and the criteria shall be developed with the  
29 objectives of reducing the cost and increasing the efficiency of the  
30 process of tank closure while also ensuring environmental protection  
31 and public safety.

32 (cf: P.L.1997, c.430, s.1)

33  
34 3. Section 2 of P.L.1991, c.123 (C.58:10A-24.2) is amended to  
35 read as follows:

36 2. a. A business firm shall not engage in the business of performing  
37 services on underground storage tanks at underground storage tank  
38 sites for purposes of complying with the requirements of P.L.1986,  
39 c.102 (C.58:10A-21 et seq.) , or tank testing, tank installation, tank  
40 removal, tank closure, or subsurface evaluations for corrective action,  
41 closure or corrosivity on an unregulated heating oil tank, unless the  
42 business firm has been certified in accordance with section 3 of  
43 P.L.1991, c.123 (C.58:10A-24.3), by certification of the owner, or, in  
44 the case of partnership, a partner in the firm, or, in the case of a  
45 corporation, an executive officer of the corporation.

46 b. Except as provided pursuant to subsection b. of section 1 of

1 P.L.1991, c.123 (C.58:10A-24.1), any service performed on an  
2 underground storage tank at an underground storage tank site for the  
3 purpose of complying with the provisions of P.L.1986, c.102  
4 (C.58:10A-21 et seq.), or tank testing, tank installation, tank removal,  
5 tank closure, or subsurface evaluations for corrective action, closure  
6 or corrosivity on an unregulated heating oil tank, shall be performed  
7 by, or under the immediate on-site supervision of, a person certified by  
8 the department in accordance with section 3 of P.L.1991, c.123  
9 (C.58:10A-24.3).

10 c. A business firm or other person performing well drilling or  
11 pump installation services at the site of an underground storage tank  
12 or an unregulated heating oil tank who is licensed to perform such  
13 services pursuant to section 7 of P.L.1947, c.377 (C.58:4A-11), shall  
14 not be required to be certified pursuant to section 3 of P.L.1991, c.123  
15 (C.58:10A-24.3), or to perform those services under the supervision  
16 of a person certified thereunder.

17 d. Professional engineers licensed pursuant to P.L.1938, c.342  
18 (C.45:8-27 et seq.) shall be exempt from the certification requirements  
19 of section 3 of P.L.1991, c.123 (C.58:10A-24.3) and from the  
20 payment of a recertification or renewal fee required pursuant to  
21 section 4 of that act (C.58:10A:24.4), but shall be required to obtain  
22 a certification card issued by the department at no charge and to make  
23 the card available for inspection by a State or local official when  
24 performing tank services on an underground storage tank at an  
25 underground storage tank site or on an unregulated heating oil tank .  
26 Professional engineers exempt pursuant to this subsection shall be  
27 required to attend a department approved training course on the  
28 department's rules and regulations concerning underground storage  
29 tanks within one year of certification or recertification.

30 e. A plumbing contractor, as defined pursuant to section 2 of  
31 P.L.1968, c.362 (C.45:14C-2), engaged in the installation, repair,  
32 testing, or closure of a waste oil underground storage tank shall be  
33 exempt from the certification requirements of section 3 of P.L.1991,  
34 c.123 (C.58:10A-24.3) and from payment of a recertification or  
35 renewal fee required pursuant to section 4 of that act  
36 (C.58:10A-24.4), but shall be required to obtain a certification card  
37 issued by the department at no charge and to make the card available  
38 for inspection by a State or local official when performing tank  
39 services on an underground storage tank. Plumbing contractors  
40 exempt pursuant to this subsection shall be required to attend a  
41 department approved training course on the department's rules and  
42 regulations concerning underground storage tanks within one year of  
43 certification or recertification. A plumbing contractor engaged in the  
44 installation, repair, testing, or closure of an unregulated heating oil  
45 tank or an underground storage tank that is not a waste oil tank shall

1 be required to comply with section 3 of P.L.1991, c.123  
2 (C.58:10A-24.3).

3 (cf: P.L.1997, c.430, s.2)

4

5 4. Section 3 of P.L.1991, c.123 (C.58:10A-24.3) is amended to  
6 read as follows:

7 3. a. The department shall establish and conduct examinations for  
8 certifying that a person is qualified to perform services on  
9 underground storage tanks at underground storage tank sites for  
10 purposes of complying with the provisions of P.L.1986, c.102  
11 (C.58:10A-21 et seq.) and for tank testing, tank installation, tank  
12 removal, tank closure, or subsurface evaluations for corrective action,  
13 closure or corrosivity on unregulated heating oil tanks. Application to  
14 the department for examination for certification shall be made in a  
15 manner and on such forms as may be prescribed by the department.  
16 The department may prescribe training or continuing education,  
17 experience or other requirements as a condition for taking a  
18 certification examination, or for recertification. The filing of an  
19 application shall be accompanied by a nonrecoverable application fee  
20 of \$35.00 to cover the costs of processing the application and  
21 conducting examinations. No person shall be certified by the  
22 department unless he or she satisfactorily completes the examination  
23 and satisfies any other requirements of this act, or of the department  
24 adopted pursuant thereto.

25 b. Notwithstanding the provisions of subsection a. of this section,  
26 any person who files, within 300 days of the effective date of this act,  
27 an application for certification under this subsection, and demonstrates  
28 to the department that he or she has adequately performed services on  
29 underground storage tanks at underground storage tank sites for at  
30 least five consecutive years immediately preceding the filing of the  
31 application, shall be certified without examination upon payment of an  
32 application and certification fee. Within one year of certification, a  
33 person certified pursuant to this subsection shall submit to the  
34 department evidence of attendance at a department approved training  
35 course on the department's rules and regulations concerning  
36 underground storage tanks. One year from the effective date of this  
37 act, no person applying for certification pursuant to this subsection  
38 shall perform services requiring certification until certified by the  
39 department.

40 c. A person certified pursuant to subsection b. of this section shall  
41 comply with the examination and other requirements adopted by the  
42 department pursuant to subsection a. of this section as a precondition  
43 for filing for a renewal of a certification issued pursuant to subsection  
44 b. of this section.

45 d. The department may establish a general certification for tank  
46 services and on-site supervisory responsibilities, and such other classes

1 of certification for particular tank services or for on-site supervisory  
2 responsibilities as it deems appropriate, and may establish separate  
3 training, examination and working experience requirements therefor.  
4 The department shall establish a separate certification for tank testing,  
5 tank installation, tank removal, tank closure, and subsurface  
6 evaluations for corrective action, closure or corrosivity on unregulated  
7 heating oil tanks with separate training and examination requirements  
8 therefor. Any person certified to perform services on underground  
9 storage tanks at underground storage tank sites for purposes of  
10 complying with the provisions of P.L.1986, c.102 (C.58:10A-21 et  
11 seq.) shall not be required to obtain a separate certification to perform  
12 work on unregulated heating oil tanks.

13 (cf: P.L.1991, c.123, s.3)

14

15 5. Section 4 of P.L.1991, c.123 (C.58:10A-24.4) is amended to  
16 read as follows:

17 4. a. Certification shall be for a three-year period. Renewal of a  
18 certification, or recertification, shall be made to the department at least  
19 60 days prior to the expiration date of the certification, and shall be  
20 accompanied by evidence of attendance at a department approved  
21 training course, within the preceding 12 months, on the department's  
22 rules and regulations concerning underground storage tanks or on tank  
23 testing, tank installation, tank removal, tank closure, or subsurface  
24 evaluations for corrective action, closure or corrosivity on  
25 unregulated heating oil tanks. Certification shall not be transferable.  
26 No certification or recertification shall be issued until a certification  
27 fee of \$250.00 has been paid in full to the department. Application and  
28 certification fees shall be in an amount sufficient to cover the costs to  
29 the department of administering and enforcing the provisions of this  
30 act and may be adjusted by the department through the adoption of  
31 rules and regulations pursuant to the "Administrative Procedure Act,"  
32 P.L.1968, c.410 (C.52:14B-1 et seq.). A person shall have 90 days  
33 from the expiration date of a certification to renew an expired  
34 certification, after which date the person shall be required to apply for  
35 a new certification. The 90-day grace period shall not entitle a person  
36 to perform any services for which certification is required.

37 b. As a condition of certification or recertification, a business firm  
38 shall be required to provide the department with evidence of financial  
39 responsibility for the performance of services provided pursuant to  
40 P.L.1986, c.102 (C.58:10A-21 et seq.) , for the performance of tank  
41 testing, tank installation, tank removal, tank closure, or subsurface  
42 evaluations for corrective action, closure or corrosivity on  
43 unregulated heating oil tanks, and for the cleanup or mitigation of a  
44 hazardous substance discharge resulting from the performance of such  
45 services. Financial responsibility shall be in an amount to be  
46 determined by the department but in no case less than \$250,000.



1 Financial responsibility may be in the form of insurance, a surety bond,  
2 letter of credit, or other security posted with the department, or  
3 self-insurance, as may be prescribed by the department. If the financial  
4 responsibility is in the form of insurance, a surety bond, or similar  
5 device, the business firm shall promptly notify the department of any  
6 cancellation or change in coverage. Financial responsibility in the  
7 amount and form required by the department shall be maintained for  
8 the term of certification by the business firm.

9 A copy of the certification shall be conspicuously displayed for  
10 public review in the business office of a firm engaged in tank testing,  
11 tank installation, tank removal, tank closure, or subsurface evaluations  
12 for corrective action, closure or corrosivity on unregulated heating oil  
13 tanks or engaged in providing services for underground storage tanks  
14 at underground storage tank sites. If a firm maintains a business office  
15 at more than one location, the certification shall be conspicuously  
16 displayed at each location.

17 (cf: P.L.1991, c.123, s.4)

18

19 6. Section 5 of P.L.1991, c.123 (C.58:10A-24.5) is amended to  
20 read as follows:

21 5. a. The department may deny, suspend, revoke, or refuse to  
22 renew a certification for good cause, including:

23 (1) a violation, or abetting another to commit a violation, of any  
24 provision of this act, or of P.L.1986, c.102 (C.58:10A-21 et seq.), or  
25 rule or regulation adopted, or order issued under either act;

26 (2) making a false statement on an application for certification or  
27 other information required by the department pursuant to this act, or  
28 P.L.1986, c.102;

29 (3) misrepresentation or the use of fraud in obtaining certification  
30 or performing tank testing, tank installation, tank removal, tank  
31 closure, or subsurface evaluations for corrective action, closure or  
32 corrosivity on an unregulated heating oil tank or performing  
33 underground storage tank services.

34 b. Before suspending, revoking, or refusing to renew a  
35 certification, the department shall afford the applicant or certificate  
36 holder an opportunity to be heard in accordance with the provisions of  
37 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
38 seq.).

39 c. Suspension, revocation, or refusal to renew a certification shall  
40 not bar the department from pursuing against the applicant or  
41 certificate holder any other lawful remedy available to the department.

42 d. Any business firm or person whose certification is revoked shall  
43 be ineligible to apply for certification for three years from the date of  
44 the revocation.

45 e. If the department has reason to believe that a condition exists  
46 that poses an imminent threat to the public health, safety or welfare,

1 it may order the certificate holder to cease operations pending the  
2 outcome of the hearing.

3 (cf: P.L.1991, c.123, s.5)

4

5 7. The Department of Environmental Protection shall, within 120  
6 days of the effective date of this section, establish guidelines to  
7 implement the provisions of this act, and shall, within 180 days of the  
8 effective date of this section, establish rules and regulations for such  
9 implementation.

10

11 8. Section 7 of this act shall take effect immediately and the  
12 remainder of this act shall take effect 180 days after enactment.

13

14

15

#### STATEMENT

16

17 This bill would require certification for a person who performs  
18 certain services on unregulated heating oil tanks. Currently, any  
19 person who performs services on underground storage tanks that are  
20 regulated by the Department of Environmental Protection must be  
21 certified. This bill would require that certification to be held by  
22 persons that perform tank testing, tank installation, tank removal, tank  
23 closure, or subsurface evaluations for corrective action, closure or  
24 corrosivity on unregulated heating oil tanks.

# ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3156**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 20, 1999

The Assembly Solid and Hazardous Waste Committee favorably reports Assembly Bill No. 3156 with committee amendments.

As amended, this bill would require certification for a person who performs certain services on unregulated heating oil tanks. Currently, any person who performs services on underground storage tanks that are regulated by the Department of Environmental Protection must be certified. This bill would require that certification to be held by persons that perform tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks.

The committee amended the bill to correct the definition of "unregulated heating oil tank" to exclude already regulated tanks. Existing law provides that only certified contractors may perform work on tanks used to store heating oil for on-site consumption in a nonresidential building with a capacity greater than 2,000 gallons. In addition, committee amendments clarify that underground storage tanks located on a farm are not covered by the provisions of this bill.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## **ASSEMBLY, No. 3156**

# **STATE OF NEW JERSEY**

## **208th LEGISLATURE**

DATED: JANUARY 10, 2000

Assembly Bill No. 3156 (1R) of 1999 would require certification for a person who performs certain services on unregulated heating oil tanks. Currently, any person who performs services on underground storage tanks that are regulated by the Department of Environmental Protection (DEP) must be certified. This bill would require such certification to be held by persons that perform tank testing, tank installation, tank removal, tank closure, or subsurface evaluations for corrective action, closure or corrosivity on unregulated heating oil tanks, which are defined as those used for on-site consumption in residential buildings or those with a capacity of up to 2,000 gallons which are used to store heating oil for on-site consumption in a nonresidential building.

The Office of Legislative Services estimates that the DEP will incur minimal additional operating costs to expand its existing underground storage tank certification program to include the certification of persons performing services on heating oil tanks as prescribed under the bill. More substantial costs may be incurred, however, in the implementation phase and during the first year of this activity when the bulk of the certification applications will be made. A reliable estimation of these costs cannot be made until the number of initial applicants can be substantiated. Likewise, any subsequent revenues generated by fees from such applicants, which would serve to partially offset these costs, is also difficult to estimate at this time.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

*Office of the Governor*  
**NEWS RELEASE**

PO BOX 004  
TRENTON, NJ 08625

CONTACT: Gene Herman  
609-777-2600

RELEASE: January 6, 2000

Gov. Christie Whitman today signed the following pieces of legislation:

**S-1551**, sponsored by Senators Nicholas J. Sacco (D-Bergen/Hudson) and Henry P. McNamara (R-Bergen/Passaic) and Assembly Members John E. Rooney (R-Bergen) and David C. Russo (R-Bergen/Passaic), authorizes the board of education of a school district to apply to the economic Development Administration (EDA) for an interest-free loan for the costs of cleaning up a leaking tank, or upgrading or closing a regulated tank.

**S-2013**, sponsored by Senators Norman M. Robertson (R-Essex/Passaic) and William L. Gormley (R-Atlantic) and Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Anthony M. Impreveduto (D-Bergen/Hudson), prohibits physicians, chiropractors, and other health care professionals from soliciting professional employment from accident and disaster victims within the 30-day period after the accident or disaster. The bill also provides for a criminal penalty against attorneys who violate the rules of professional conduct by contacting victims.

**SCS for S-1613**, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Henry P. McNamara (R-Bergen/Passaic) and Assembly Members John E. Rooney (R-Bergen) and David C. Russo (R-Bergen/Passaic), establishes a certification requirement for persons removing or installing an unregulated storage tank. Unregulated storage tanks are those used for residential purposes and non-residential tanks under 2000 gallons.

**S-1941**, sponsored by Senators Richard J. Codey (D-Essex) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Jack Collins (R-Salem/Cumberland/Gloucester), establishes the Senator Wynona Lipman Chair in Political Leadership at the Center for the American Woman and Politics at the Eagleton Institute of Politics. The bill appropriates \$100,000 to finance the chair. The bill is a tribute to the late Senator Lipman.

**S-908**, sponsored by Senators Joseph A. Palaia (R-Monmouth) and John Matheussen (R-Camden/Gloucester) and Assembly Member Tom Smith (R-Monmouth) reduces the minimum eligibility age for membership in the Junior Firemen's Auxiliary from 16 to 14.

**S-1370**, sponsored by Senator James S. Cafiero (R-Atlantic/Cape May/Cumberland) and Assembly Members John C. Gibson (R-Atlantic/Cape May/Cumberland) and Nicholas Asselta (R-Atlantic/Cape May/Cumberland), extends to elementary students certain drug counseling-related confidentiality protections currently available to secondary students. The bill is intended to encourage students to seek out drug counseling and foster greater communication between students and counselors.

**S-1061**, sponsored by Senators Martha W. Bark (R-Atlantic/Burlington/Camden) and John A. Girgenti (D-Passaic) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris), repeals, recodifies and supplements a number of statutes dealing with evidence and service of process. The bill embodies the recommendations of the New Jersey Law Revision Commission, which in 1996 undertook a review of these statutes.

**S-273**, sponsored by the late Senator Wynona Lipman (D-Essex/Union) and Assembly Member Craig A. Stanley (D-Essex), grants voting rights to student members of the Commission on Higher Education.

**S-1954**, sponsored by Senators C. Louis Bassano (R-Essex/Union) and Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Assembly Members Kevin J. O'Toole (R-Essex/ Union) and Joel M. Weingarten (R-Essex/Union), permits the Governor to appoint up to three out-of-state alumni to the boards of trustees of each of the nine state colleges and universities. Previously, all members of the boards of trustees were required to be citizens of New Jersey.

**A-2392**, sponsored by Assembly Members Paul DiGaetano (R- Bergen/Essex/Passaic) and Doria (D-Hudson) and Senator C. Louis Bassano (R- Essex/Union), permits a chiropractor licensed to practice in New Jersey (or a bordering state) to certify a person as handicapped for purposes of handicapped parking. Under previous law, only a licensed physician or podiatrist could grant this certification.

**A-2781**, sponsored by Assembly Members Connie Myers (R- Warren/Hunterdon/Mercer) and Guy R. Gregg (R-Sussex/Hunterdon/Morris) and Senator Martha W. Bark (R-Atlantic/ Burlington/Camden), allows the issuance of a permit to farmers to kill deer because of crop damage incurred anytime in the prior year. In order to receive the special permit, the bill allows the Division of Fish and Wildlife to require a farmer to demonstrate that he or she has sustained crop damage due to deer during the previous 12- month period.

**S-401**, sponsored by Senator Robert E. Littell (R-Sussex/Hunterdon/Morris) and Assembly Members Paul R. Kramer (R-Mercer/Middlesex) and Marion Crecco (R-Essex/Passaic), criminalizes "jumping" emergency calls. The bill's purpose is to enhance public safety by preventing persons from disrupting medical personnel and firefighters during emergencies. As a result of the bill, it is now a fourth-degree crime to use intercepted information to interfere with fire fighting operations or the provision of medical services by first aid, rescue or ambulance squad personnel.

**A-3250**, sponsored by Assembly Members Richard A. Merkt (R-Morris) and Guy R. Gregg (R-Sussex/ Hunterdon/Morris) and Senators Louis F. Kosco (R- Bergen) and Dr. Gerald Cardinale (R-Bergen), forbids tax stamping, and therefore, the sale of re-imported cigarettes originally produced for export. The bill attempts to ban gray market cigarettes by amending the Cigarette Tax Act to prohibit tobacco distributors from affixing cigarette tax stamps on cigarette packages that are repatriated. There are currently 24 states that have enacted similar legislation.