

58:10A-22

LEGISLATIVE HISTORY CHECKLIST
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(Underground storage tanks--
Federal standards)

NJSA: 58:10A-22

LAWS OF: 1994 CHAPTER: 14

BILL NO: S645

SPONSOR(S): McNamara

DATE INTRODUCED: February 24, 1994

COMMITTEE: ASSEMBLY: Environment

SENATE:

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: March 15, 1994

SENATE: March 15, 1994

DATE OF APPROVAL: April 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

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FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE, No. 645

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1994

By Senator McNAMARA

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

3

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

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

8 2. As used in this act:

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

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

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

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

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

42 g. "Monitoring system" means a system capable of detecting

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
1 Senate SEN committee amendments adopted March 10, 1994.

1 leaks or discharges, or both, other than an inventory control
2 system, used in conjunction with an underground storage tank, or
3 a facility, conforming to criteria established pursuant to section
4 5 of this act;

5 h. "Nonoperational storage tank" means any underground
6 storage tank in which hazardous substances are not contained, or
7 from which hazardous substances are not dispensed;

8 i. "Operator" means any person in control of, or having
9 responsibility for, the daily operation of a facility;

10 j. "Owner" means any person who owns a facility, or in the
11 case of a nonoperational storage tank, the person who owned the
12 nonoperational storage tank immediately prior to the
13 discontinuation of its use;

14 k. "Person" means any individual, partnership, company,
15 corporation, consortium, joint venture, commercial or any other
16 legal entity, the State of New Jersey, or the United States
17 Government;

18 l. "Residential building" means a single and multi-family
19 dwelling, nursing home, trailer, condominium, boarding house,
20 apartment house, or other structure designed primarily for use as
21 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
25 before it enters the environment;

26 n. "Substantially modify" means construction at, or
27 restoration, refurbishment or renovation of, an existing facility
28 which increases or decreases the in-place storage capacity of the
29 facility or alters the physical configuration or impairs or affects
30 the physical integrity of the facility or its monitoring systems;

31 o. "Test" or "testing" means the testing of underground
32 storage tanks in accordance with standards adopted by the
33 department;

34 p. "Underground storage tank" means any one or combination
35 of tanks, including appurtenant pipes, lines, fixtures, and other
36 related equipment, used to contain an accumulation of hazardous
37 substances, the volume of which, including the volume of the
38 appurtenant pipes, lines, fixtures and other related equipment, is
39 10% or more below the ground. "Underground storage tank" shall
40 not include:

41 (1) Farm or residential tanks of 1,100 gallons or less capacity
42 used for storing motor fuel for noncommercial purposes;

43 (2) Tanks used to store heating oil for on-site consumption in a
44 nonresidential building with a capacity of 2,000 gallons or less;

45 (3) Tanks used to store heating oil for on-site consumption in a
46 residential building [, except that for the purposes of sections 3, 7
47 and 8 of this act, a tank with a capacity of more than 2,000
48 gallons used to store heating oil for on-site consumption in a
49 residential building shall be considered an "underground storage
50 tank"];

51 (4) Septic tanks installed in compliance with regulations
52 adopted by the department pursuant to "The Realty Improvement
53 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23
54 et seq.);

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

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

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

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

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

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

25 g. "Wellhead protection area" means an aquifer area described
26 in ¹a¹ plan view around a well, from within which ground water
27 flows to the well and through which ground water pollution, if it
28 occurs, may pose a significant threat to the water quality of the
29 well. The wellhead protection area is delimited by the use of
30 time-of-travel and hydrologic boundaries.

31 (cf: P.L. 1986, c. 102, s.2)

32 2. Section 5 of P.L.1986, c.102 (C.58:10A-25) is amended to
33 read as follows:

34 5. a. The commissioner shall, within one year of the effective
35 date of [this act] P.L.1986, c.102 (C.58:10A-21 et seq.), adopt,
36 pursuant to the "Administrative Procedure Act," rules and
37 regulations which:

38 (1) Establish a schedule for the testing of all facilities, taking
39 into account the age of the underground storage tank, the
40 hazardous substance stored therein, the proximity of the
41 underground storage tank to potable water supplies, and the soil
42 resistivity and other corrosive conditions which may precipitate a
43 discharge, and for the periodic testing for structural integrity of
44 facilities utilizing secondary containment which do not
45 incorporate a monitoring system, and the reporting of results
46 thereof to the department[.];

47 (2) [Identify and require corrosion control features necessary
48 to protect the structural integrity of facilities, including cathodic
49 protection, impressed current or isolative protection or any other
50 measures to counteract or minimize soil resistivity and other
51 corrosive conditions which may precipitate a leak or discharge.]
52 Establish standards for the construction, installation, and
53 operation of new and existing underground storage tanks,
54 including standards for secondary containment, monitoring

1 systems, release detection systems, corrosion protection, spill
2 prevention, and overflow prevention, and other underground
3 storage tank equipment. The standards adopted pursuant to this
4 paragraph shall be substantially identical to the relevant
5 standards adopted by the United States Environmental Protection
6 Agency pursuant to 42 U.S.C. §6991 et seq. for the regulation of
7 underground storage tanks. The standards adopted by the
8 department for any underground storage tank not regulated
9 pursuant ¹to¹ 42 U.S.C. §6991 et seq. shall not be more stringent
10 than the standards adopted by the United States Environmental
11 Protection Agency for underground storage tanks regulated
12 pursuant to 42 U.S.C. §6991 et seq. Notwithstanding any other
13 provision in this paragraph to the contrary, standards adopted by
14 the department for any underground storage tank located in a
15 wellhead protection area may be more stringent than the
16 standards adopted by the United States Environmental Protection
17 Agency for underground storage tanks pursuant to 42 U.S.C. §6991
18 et seq.;

19 (3) [Establish standards for monitoring systems which shall
20 include the requirement of at least a warning method indicating a
21 leak or discharge. Monitoring systems may include electric or
22 mechanical devices, monitoring wells, or any other method of
23 monitoring approved by the department. Any regulations adopted
24 by the department pursuant to this section requiring the
25 installation of monitoring systems at a facility shall reflect the
26 financial ability of an owner or operator of a facility, or classes
27 of facilities, to install the monitoring system required by the
28 department.] Deleted by amendment, P.L. , c. ¹(now before
29 the Legislature as this bill)¹ ;

30 (4) Require the maintaining of records of any monitoring or
31 leak detection system, inventory control system or underground
32 storage tank testing system [.] ;

33 (5) Require the reporting of any discharges and the corrective
34 action taken in response to a discharge from an underground
35 storage tank [.] ;

36 (6) Require the taking of corrective action in response to a
37 discharge from an underground storage tank by the owner or
38 operator of the underground storage tank [.] ;

39 (7) Require the owner or operator of an underground storage
40 tank to prepare plans for the closure of an underground storage
41 tank to prevent the future discharge of hazardous substances into
42 the environment [.] ;

43 (8) Require the maintaining of evidence of financial
44 responsibility for taking corrective action and compensating third
45 parties for bodily injury and property damage caused by a
46 discharge [.] and ;

47 (9) [Require the development of performance standards for
48 new and substantially modified existing underground storage
49 tanks.] Deleted by amendment, P.L. , c. ¹(now before the
50 Legislature as this bill)¹ ;

51 (10) Require the notification of the department and local
52 agencies of the existence of any operational or nonoperational
53 underground storage tanks.

54 b. In developing the regulations required pursuant to this

1 section the department shall consider the regulations concerning
2 underground storage tanks adopted by the United States
3 Environmental Protection Agency pursuant to the "Hazardous and
4 Solid Waste Amendments of 1984," Pub.L.98-616 (42 U.S.C.§6991
5 et al.) and shall use the recommendations and standard
6 procedures of the following organizations:

7 (1) American Petroleum Institute (API), 1220 L Street, N.W.,
8 Washington, D.C. 20005;

9 (2) American Society for Testing and Materials (ASTM), 1916
10 Race Street, Philadelphia, Pennsylvania 19103;

11 (3) [National Association of Corrosion Engineers (NACE)]
12 NACE International, P.O. Box 218340, Houston, Texas 77218;

13 (4) National Fire Protection Association (NFPA), 1
14 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269;
15 and

16 (5) Underwriters Laboratories (UL), 333 Pfingston Road,
17 Northbrook, Illinois 60062.

18 c. The Department of Community Affairs shall adopt in the
19 State Uniform Construction Code the rules and regulations
20 adopted by the department pursuant to this section within 60 days.
21 (cf: P.L.1986, c.102, s.5)

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

24 9. [The department shall require, by regulation, an orderly
25 phase-in by all facilities of an approved method of secondary
26 containment, or an approved release detection or monitoring
27 system, to be completed not later than December 22, 1993;
28 except that in the case of underground storage tanks for heating
29 oil used for on-site consumption in nonresidential buildings, the
30 phase-in, to be prescribed by the department, shall be completed
31 by August 6, 1995].

32 The department shall adopt rules and regulations, pursuant to
33 the "Administrative Procedure Act," P.L.1968, c.410 (52:14B-1
34 et seq.), requiring the owner or ¹[operator] operator¹ of a facility
35 to meet the standards for the construction, installation, and
36 operation of new and existing underground storage tanks,
37 including standards for secondary containment, monitoring
38 systems, release detection systems, corrosion protection, spill
39 prevention, and overfill prevention, and other ¹[underground]
40 underground¹ storage tank equipment adopted pursuant to
41 paragraph (2) of subsection a. of section 5 of P.L.1986, c.102
42 (C.58:10A-25). The deadlines for compliance with the standards
43 shall be identical to those deadlines established by the United
44 States Environmental Protection Agency pursuant to 42
45 U.S.C.§6991 et seq. for all underground storage tanks, including
46 those underground storage tanks not regulated pursuant to 42
47 U.S.C.§6991 et seq.

48 (cf: P.L.1991, c.1, s.3)

49 4. This act shall take effect immediately.

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53 Provides that the deadlines and standards for upgrades of
54 underground storage tanks shall be the same as provided in
55 federal law.

1 Solid Waste Amendments of 1984," Pub.L.98-616 (42 U.S.C. §6991
2 et al.) and shall use the recommendations and standard
3 procedures of the following organizations:

- 4 (1) American Petroleum Institute (API), 1220 L Street, N.W.,
5 Washington, D.C. 20005;
- 6 (2) American Society for Testing and Materials (ASTM), 1916
7 Race Street, Philadelphia, Pennsylvania 19103;
- 8 (3) [National Association of Corrosion Engineers (NACE)]
9 NACE International, P.O. Box 218340, Houston, Texas 77218;
- 10 (4) National Fire Protection Association (NFPA), 1
11 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269;
12 and
- 13 (5) Underwriters Laboratories (UL), 333 Pfingston Road,
14 Northbrook, Illinois 60062.

15 c. The Department of Community Affairs shall adopt in the
16 State Uniform Construction Code the rules and regulations
17 adopted by the department pursuant to this section within 60 days.
18 (cf: P.L.1986, c.102, s.5)

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

21 9. [The department shall require, by regulation, an orderly
22 phase-in by all facilities of an approved method of secondary
23 containment, or an approved release detection or monitoring
24 system, to be completed not later than December 22, 1993;
25 except that in the case of underground storage tanks for heating
26 oil used for on-site consumption in nonresidential buildings, the
27 phase-in, to be prescribed by the department, shall be completed
28 by August 6, 1995].

29 The department shall adopt rules and regulations, pursuant to
30 the "Administrative Procedure Act," P.L.1968, c.410 (52:14B-1
31 et seq.), requiring the owner or operator of a facility to meet the
32 standards for the construction, installation, and operation of new
33 and existing underground storage tanks, including standards for
34 secondary containment, monitoring systems, release detection
35 systems, corrosion protection, spill prevention, and overflow
36 prevention, and other underground storage tank equipment adopted
37 pursuant to paragraph (2) of subsection a. of section 5 of
38 P.L.1986, c.102 (C.58:10A-25). The deadlines for compliance
39 with the standards shall be identical to those deadlines
40 established by the United States Environmental Protection
41 Agency pursuant to 42 U.S.C. §6991 et seq. for all underground
42 storage tanks, including those underground storage tanks not
43 regulated pursuant to 42 U.S.C. §6991 et seq.

44 (cf: P.L.1991, c.1, s.3)

45 4. This act shall take effect immediately.

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48 STATEMENT

49

50 This bill would amend the law governing the upgrade of
51 underground storage tanks to delay the deadlines for compliance
52 with the upgrade standards. The bill requires that the compliance
53 deadlines shall be identical to that set forth in the federal law

1 requiring underground storage tank upgrades. This extension for
2 upgrade compliance would also apply to those tanks regulated
3 under State but not federal law. These State regulated tanks
4 would be required to be upgraded at the same time as the
5 federally regulated tanks.

6 This bill also provides that the standards for upgrades of
7 underground storage tanks are to be substantially identical to the
8 standards required pursuant to federal law. A tank owner or
9 operator, of course, could elect to perform a more stringent
10 upgrade. The Department of Environmental Protection would,
11 however, be authorized to adopt more stringent upgrade
12 standards for underground storage tanks located in wellhead
13 protection areas.

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18 Provides that the deadlines and standards for upgrades of
19 underground storage tanks shall be the same as provided in
20 federal law.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 645

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Environment Committee favorably reports Senate Bill No. 645 with committee amendments.

This bill would extend the State deadline for complying with certain regulations for underground storage tanks adopted by the Department of Environmental Protection pursuant to P.L.1986, c.102 (C.58:10A-21 et seq.). Currently, facilities with one or more tanks must be equipped with an approved leak detection or monitoring system or an approved method of secondary containment by December 22, 1993, except that underground storage tanks larger than 2,000 gallons used to store heating oil for on-site consumption in non-residential buildings must be so equipped no later than 1994 or 1995, depending on the age of the tank. This bill, with proposed committee amendments, would extend the deadline for compliance with the upgrade requirements so that the State deadlines and the deadlines established by the United States Environmental Protection Agency (EPA) would be the same. This extension for upgrade compliance would also apply to those tanks regulated under State but not federal law. These State regulated tanks would be required to be upgraded by the same date as the federally regulated tanks. The deadline for most upgrades is December 22, 1998 but may vary depending upon the age of the tank.

Further, this bill would require that regulations establishing standards for the construction, installation, and operation of new and existing underground storage tanks, including standards for secondary containment, monitoring systems, release detection systems, corrosion protection, spill prevention, and overfill prevention and other underground storage tank equipment, be substantially identical to relevant standards adopted by the EPA pursuant to 42 U.S.C. §6991 et seq. The bill would authorize the department to adopt less stringent standards for underground storage tanks not regulated pursuant to 42 U.S.C. §6991 et seq. and more stringent standards for any tank located in a wellhead protection area. Finally, the bill would eliminate registration, inventory and reporting requirements for underground storage tanks over 2,000 gallons used to store heating oil for on-site consumption in a residential building.

The committee amendments are technical in nature. As amended, this bill is identical to Assembly Bill No. 1388 (1R).



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: BOB MCHUGH
777-2600

TRENTON, N.J. 08625

Release: APRIL 12, 1994

Gov. Christie Whitman today signed the following legislation into law:

A-1388/S-645, which extends the deadline for environmental upgrading of underground storage tanks.

The bill extends the expired deadline of Dec. 22, 1993, to December 22, 1998, matching a federal deadline.

The measure also makes other adjustments to New Jersey's underground storage tank (UST) law including exemption of certain large tanks from some state reporting requirements, elimination of some UST standards in lieu of federal regulations and other changes generally to conform the state UST law to federal standards.

The bill's primary sponsors are Sen. Henry McNamara, R-Bergen, and Assemblymen John Rocco, R-Camden, and Michael Arnone, R-Monmouth.

A-839/S-530, "The Charitable Registration and Investigation Act."

The bill repeals the "Charitable Fundraising Act of 1971" and replaces it with new safeguards against fraudulent solicitation of contributions in the name of charity.

The measure requires registration of charitable organizations and fundraisers and allows the Attorney General to set regulations and fees for such registration as well as for .

Churches, educational institutions and libraries are exempt, but they must also conform to the bill's enforcement and recordkeeping requirements.

The bill's principal sponsors are Senators Leonard Connors, R-Ocean, and Joseph Bubba, R-Passaic, and Assemblymen Anthony Impoveduto, D-Bergen, and Jeffrey Moran, R-Ocean.

A-255/S-415, which expands provisions for the payment of the accidental death benefit under the Police and Fireman's Retirement System. The bill expands the benefit to any member of the system who is a full-time firefighter and dies while performing in the line of duty as a volunteer fireman in any municipality in the state.

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The bill's principal sponsors are Assemblywoman Marie Crecco and Assemblyman John Kelly, both R-Essex, and Senators Joseph Bubba, R-Passaic, and Senator Robert Martin, R-Essex.

A-1100/S-583, which expands municipal authority to issue retail-consumption alcoholic beverage licenses to non-profit corporations which conduct musical or theatrical performances in theaters of 1,000 or more seats.

The bill principal sponsors are Senator Donald DiFrancesco, R-Union, and Assemblywoman Maureen Ogden, R-Essex.

A-877/S-364, which authorizes the Department of Human Services to sell certain real property in East Amwell Township, Hunterdon County. The property is a now-abandoned residence once used by the Department as a home for autistic children.

The bills principal sponsors are Senator William Schluter, R-Warren, and Assemblymen Garabed Haytaian, R-Warren, and Leonard Lance, R-Hunterdon.

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