



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

UNDERGROUND STORAGE TANKS

RECEIVED

Senate Bill 264 (Substitute H-2)
Senate Bill 265 (Substitute H-2) JUL 11 1989
Mich. State Law Library

First Analysis (6-8-89)

Sponsor: Sen. Vern Ehlers

Senate Committee: Natural Resources & Environmental
Affairs

House Committee: Conservation, Recreation &
Environment

THE APPARENT PROBLEM:

Public Acts 478, 479, and 518 of 1988 (House Bill 5508, Senate Bill 1018, and Senate Bill 1040, respectively) provide for the regulation of underground storage tanks and for corrective actions to be taken when such tanks are found to be leaking. A revenue source was not established, however, for the Michigan Underground Storage Tank Financial Assurance Fund and the Emergency Response Fund, which were created by Public Act 518. As a result most of the provisions of those acts are scheduled to expire six months after their effective dates. Senate Bill 266, currently pending before the House, would amend Public Act 518 to address the revenue source issue. Since strong state regulation of underground storage tanks is necessary for the state to meet federal standards and continue to receive federal funds, many people feel that the sunset dates on the 1988 acts should be removed, and that enforcement provisions should be strengthened as well.

THE CONTENT OF THE BILLS:

Senate Bill 264 would amend the Leaking Underground Storage Tank Act to increase from 30 to 45 the number of days that the director of the Department of Natural Resources has to approve or disapprove a corrective action plan. In addition, if the director disapproved the plan, he or she would have to provide the tank owner with a list of deficiencies in the plan and recommendations that, if incorporated, would result in the plan's approval. The director would have to provide a schedule for resubmittal of the plan. Currently, a disapproval need only be accompanied by "a list of changes that would result in the plan's approval." Once an owner or operator delivered a statement to the director providing documentation that all corrective actions had been completed, the bill would require the director to execute a document within 60 days of receipt of the statement either confirming that the corrective actions have been completed or detailing what corrective actions remain to be completed. Failure by the director to respond would be considered to mean that corrective actions remain to be completed.

The bill would include technical amendments to clarify certain definitions and lien provisions. The bill would repeal the act twelve months after the Michigan Underground Storage Tank Financial Assurance Act, Public Act 518 of 1988, became invalid, if that act was declared unconstitutional. Further, it would repeal those sections specifying that several provisions of the act will expire six months after they took effect.

MCL 299.834 et al.

Senate Bill 265 would amend the Underground Storage Tank Regulatory Act to extend the act's existing provisions pertaining to a closed or removed underground storage tank to underground storage tank systems or a tank that was part of a such a system. The act prohibits a local unit of government from enacting or enforcing an ordinance that regulated underground storage tank systems; the bill provides that the prohibition would be effective beginning October 1, 1990. Further, the bill would extend the act's misdemeanor violation provision to persons who knowingly submitted false information when registering a storage tank system. (A misdemeanor violation of the act is punishable by a maximum fine of \$500, up to six months' imprisonment, or both.) The act also provides for a civil fine of \$500 for violations of the act or its rules. Under the bill, those who provided false information would be subject to the civil fine, and the civil fine for any violation would be increased from \$500 to \$5,000 for each underground storage tank system for each day of violation. Under the bill, a civil fine would have to be based on the seriousness of the violation and any "good faith efforts" to comply with the act and its rules.

The bill would repeal the act twelve months after Public Act 518 of 1988 became invalid, if that act was declared unconstitutional, would repeal several obsolete sections of the act, and would repeal those sections specifying that several provisions of the act will expire six months after they took effect.

MCL 299.701 et al.

HOUSE COMMITTEE ACTION:

The House Conservation, Recreation, and Environment Committee adopted a substitute for Senate Bill 264 to clarify lien provisions in the bill, to specify the amount of time the DNR would have to respond to certain statements submitted by owners or operators of tanks, and to repeal the bill if Senate Bill 266 is declared unconstitutional. The committee also adopted a substitute for Senate Bill 265 to repeal the bill if Senate Bill 266 is declared unconstitutional.

FISCAL IMPLICATIONS:

Fiscal information is not available. (6-7-89)

ARGUMENTS:

For:

The bills are necessary for Michigan's regulation of underground storage tanks to continue to meet federal standards and for the the state to remain eligible for any

OVER

available federal funds. In addition, increasing the number of days that the director of the DNR would have to approve or disapprove corrective action plans would ensure that proposed plans received an adequate and thorough review. Further, the maximum civil penalty of \$5,000 per day per tank system proposed by Senate Bill 265 would provide a more adequate deterrent to violating the act than currently provided by the maximum penalty of \$500.

POSITIONS:

The Associated Petroleum Industries support the bills.
(6-7-89)

The Service Station Dealers Association of Michigan supports the bills. (6-7-89)