



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5277

Introduced 01/25/06, by Rep. Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

430 ILCS 15/2

from Ch. 127 1/2, par. 154

Amends the Gasoline Storage Act. Removes the county population limitation for the issuance of permits for the dispensing or delivery of flammable or combustible motor vehicle fuels directly into the fuel tanks of vehicles from tank trucks, tank wagons, or other portable tanks for sites used for the parking, operation, or maintenance of a commercial vehicle fleet. Effective immediately.

LRB094 16696 LCT 51966 b

1 AN ACT concerning public safety.

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

4 Section 5. The Gasoline Storage Act is amended by changing
5 Section 2 as follows:

6 (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

7 Sec. 2. Jurisdiction; regulation of tanks.

8 (1) (a) Except as otherwise provided in this Act, the
9 jurisdiction of the Office of the State Fire Marshal under this
10 Act shall be concurrent with that of municipalities and other
11 political subdivisions. The Office of the State Fire Marshal
12 has power to promulgate, pursuant to the Illinois
13 Administrative Procedure Act, reasonable rules and regulations
14 governing the keeping, storage, transportation, sale or use of
15 gasoline and volatile oils. Nothing in this Act shall relieve
16 any person, corporation, or other entity from complying with
17 any zoning ordinance of a municipality or home rule unit
18 enacted pursuant to Section 11-13-1 of the Illinois Municipal
19 Code or any ordinance enacted pursuant to Section 11-8-4 of the
20 Illinois Municipal Code.

21 (b) The rulemaking power shall include the power to
22 promulgate rules providing for the issuance and revocation of
23 permits allowing the self service dispensing of motor fuels as
24 such term is defined in the Motor Fuel Tax Law in retail
25 service stations or any other place of business where motor
26 fuels are dispensed into the fuel tanks of motor vehicles,
27 internal combustion engines or portable containers. Such rules
28 shall specify the requirements that must be met both prior and
29 subsequent to the issuance of such permits in order to insure
30 the safety and welfare of the general public. The operation of
31 such service stations without a permit shall be unlawful. The
32 Office of the State Fire Marshal shall revoke such permit if

1 the self service operation of such a service station is found
2 to pose a significant risk to the safety and welfare of the
3 general public.

4 (c) However, except in any county with a population of
5 1,000,000 or more, the Office of the State Fire Marshal shall
6 not have the authority to prohibit the operation of a service
7 station solely on the basis that it is an unattended
8 self-service station which utilizes key or card operated
9 self-service motor fuel dispensing devices. Nothing in this
10 paragraph shall prohibit the Office of the State Fire Marshal
11 from adopting reasonable rules and regulations governing the
12 safety of self-service motor fuel dispensing devices.

13 (d) The State Fire Marshal shall not prohibit the
14 dispensing or delivery of flammable or combustible motor
15 vehicle fuels directly into the fuel tanks of vehicles from
16 tank trucks, tank wagons, or other portable tanks. The State
17 Fire Marshal shall adopt rules (i) for the issuance of permits
18 for the dispensing of motor vehicle fuels in the manner
19 described in this paragraph (d), (ii) that establish fees for
20 permits and inspections, and provide for those fees to be
21 deposited into the Fire Prevention Fund, (iii) that require the
22 dispensing of motor fuel in the manner described in this
23 paragraph (d) to meet conditions consistent with nationally
24 recognized standards such as those of the National Fire
25 Protection Association, and (iv) that restrict the dispensing
26 of motor vehicle fuels in the manner described in this
27 paragraph (d) to the following:

- 28 (A) agriculture sites for agricultural purposes,
29 (B) construction sites for refueling construction
30 equipment used at the construction site,
31 (C) sites used for the parking, operation, or
32 maintenance of a commercial vehicle fleet, ~~but only if the~~
33 ~~site is located in a county with 3,000,000 or more~~
34 ~~inhabitants or a county contiguous to a county with~~
35 ~~3,000,000 or more inhabitants and the site is not normally~~
36 ~~accessible to the public,~~ and

1 (D) sites used for the refueling of police, fire, or
2 emergency medical services vehicles or other vehicles that
3 are owned, leased, or operated by (or operated under
4 contract with) the State, a unit of local government, or a
5 school district, or any agency of the State and that are
6 not normally accessible to the public.

7 (2) (a) The Office of the State Fire Marshal shall adopt
8 rules and regulations regarding underground storage tanks and
9 associated piping and no municipality or other political
10 subdivision shall adopt or enforce any ordinances or
11 regulations regarding such underground tanks and piping other
12 than those which are identical to the rules and regulations of
13 the Office of the State Fire Marshal. It is declared to be the
14 law of this State, pursuant to paragraphs (h) and (i) of
15 Section 6 of Article VII of the Illinois Constitution, that the
16 establishment and enforcement of standards regarding
17 underground storage tanks and associated piping within the
18 jurisdiction of the Office of the State Fire Marshal is an
19 exclusive State function which may not be exercised
20 concurrently by a home rule unit except as expressly permitted
21 in this Act.

22 (b) The Office of the State Fire Marshal may enter into
23 written contracts with municipalities of over 500,000 in
24 population to enforce the rules and regulations adopted under
25 this subsection.

26 (3) (a) The Office of the State Fire Marshal shall have
27 authority over underground storage tanks which contain, have
28 contained, or are designed to contain petroleum, hazardous
29 substances and regulated substances as those terms are used in
30 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
31 (P.L. 98-616), as amended by the Superfund Amendments and
32 Reauthorization Act of 1986 (P.L. 99-499). The Office shall
33 have the power with regard to underground storage tanks to
34 require any person who tests, installs, repairs, replaces,
35 relines, or removes any underground storage tank system
36 containing, formerly containing, or which is designed to

1 contain petroleum or other regulated substances, to obtain a
2 permit to install, repair, replace, reline, or remove the
3 particular tank system, and to pay a fee set by the Office for
4 a permit to install, repair, replace, reline, upgrade, test, or
5 remove any portion of an underground storage tank system. All
6 persons who do repairs above grade level for themselves need
7 not pay a fee or be certified. All fees received by the Office
8 from certification and permits shall be deposited in the Fire
9 Prevention Fund for the exclusive use of the Office in
10 administering the Underground Storage Tank program.

11 (b) (i) Within 120 days after the promulgation of
12 regulations or amendments thereto by the Administrator of the
13 United States Environmental Protection Agency to implement
14 Section 9003 of Subtitle I of the Hazardous and Solid Waste
15 Amendments of 1984 (P.L. 98-616) of the Resource Conservation
16 and Recovery Act of 1976 (P.L. 94-580 ~~95-580~~), as amended, the
17 Office of the State Fire Marshal shall adopt regulations or
18 amendments thereto which are identical in substance. The
19 rulemaking provisions of Section 5-35 of the Illinois
20 Administrative Procedure Act shall not apply to regulations or
21 amendments thereto adopted pursuant to this subparagraph (i).

22 (ii) The Office of the State Fire Marshal may adopt
23 additional regulations relating to an underground storage tank
24 program that are not inconsistent with and at least as
25 stringent as Section 9003 of Subtitle I of the Hazardous and
26 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource
27 Conservation and Recovery Act of 1976 (P.L. 94-580), as
28 amended, or regulations adopted thereunder. Except as provided
29 otherwise in subparagraph (i) of this paragraph (b), the Office
30 of the State Fire Marshal shall not adopt regulations relating
31 to corrective action at underground storage tanks. Regulations
32 adopted pursuant to this subsection shall be adopted in
33 accordance with the procedures for rulemaking in Section 5-35
34 of the Illinois Administrative Procedure Act.

35 (c) The Office of the State Fire Marshal shall require any
36 person, corporation or other entity who tests an underground

1 tank or its piping or cathodic protection for another to report
2 the results of such test to the Office.

3 (d) In accordance with constitutional limitations, the
4 Office shall have authority to enter at all reasonable times
5 upon any private or public property for the purpose of:

6 (i) Inspecting and investigating to ascertain possible
7 violations of this Act, of regulations thereunder or of
8 permits or terms or conditions thereof; or

9 (ii) In accordance with the provisions of this Act,
10 taking whatever emergency action, that is necessary or
11 appropriate, to assure that the public health or safety is
12 not threatened whenever there is a release or a substantial
13 threat of a release of petroleum or a regulated substance
14 from an underground storage tank.

15 (e) The Office of the State Fire Marshal may issue an
16 Administrative Order to any person who it reasonably believes
17 has violated the rules and regulations governing underground
18 storage tanks, including the installation, repair, leak
19 detection, cathodic protection tank testing, removal or
20 release notification. Such an order shall be served by
21 registered or certified mail or in person. Any person served
22 with such an order may appeal such order by submitting in
23 writing any such appeal to the Office within 10 days of the
24 date of receipt of such order. The Office shall conduct an
25 administrative hearing governed by the Illinois Administrative
26 Procedure Act and enter an order to sustain, modify or revoke
27 such order. Any appeal from such order shall be to the circuit
28 court of the county in which the violation took place and shall
29 be governed by the Administrative Review Law.

30 (f) The Office of the State Fire Marshal shall not require
31 the removal of an underground tank system taken out of
32 operation before January 2, 1974, except in the case in which
33 the office of the State Fire Marshal has determined that a
34 release from the underground tank system poses a current or
35 potential threat to human health and the environment. In that
36 case, and upon receipt of an Order from the Office of the State

1 Fire Marshal, the owner or operator of the nonoperational
2 underground tank system shall assess the excavation zone and
3 close the system in accordance with regulations promulgated by
4 the Office of the State Fire Marshal.

5 (4) (a) The Office of the State Fire Marshal shall adopt
6 rules and regulations regarding aboveground storage tanks and
7 associated piping and no municipality or other political
8 subdivision shall adopt or enforce any ordinances or
9 regulations regarding such aboveground tanks and piping other
10 than those which are identical to the rules and regulations of
11 the Office of the State Fire Marshal unless, in the interest of
12 fire safety, the Office of the State Fire Marshal delegates
13 such authority to municipalities, political subdivisions or
14 home rule units. It is declared to be the law of this State,
15 pursuant to paragraphs (h) and (i) of Section 6 of Article VII
16 of the Illinois Constitution, that the establishment of
17 standards regarding aboveground storage tanks and associated
18 piping within the jurisdiction of the Office of the State Fire
19 Marshal is an exclusive State function which may not be
20 exercised concurrently by a home rule unit except as expressly
21 permitted in this Act.

22 (b) The Office of the State Fire Marshal shall enforce its
23 rules and regulations concerning aboveground storage tanks and
24 associated piping; however, municipalities may enforce any of
25 their zoning ordinances or zoning regulations regarding
26 aboveground tanks. The Office of the State Fire Marshal may
27 issue an administrative order to any owner of an aboveground
28 storage tank and associated piping it reasonably believes to be
29 in violation of such rules and regulations to remedy or remove
30 any such violation. Such an order shall be served by registered
31 or certified mail or in person. Any person served with such an
32 order may appeal such order by submitting in writing any such
33 appeal to the Office within 10 days of the date of receipt of
34 such order. The Office shall conduct an administrative hearing
35 governed by the Illinois Administrative Procedure Act and enter
36 an order to sustain, modify or revoke such order. Any appeal

1 from such order shall be to the circuit court of the county in
2 which the violation took place and shall be governed by the
3 Administrative Review Law.

4 (Source: P.A. 91-851, eff. 1-1-01; 92-618, eff. 7-11-02;
5 revised 10-9-03.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.