

1 AN ACT concerning the regulation of professions.

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

4 Section 1. Short title. This Act may be cited as the  
5 Petroleum Equipment Contractors Licensing Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Employee" means a licensee or a person who is currently  
8 employed by a contractor licensed under this Act whose full  
9 or part-time duties include any activity specified in Section  
10 35 of this Act.

11 "Person" means a natural person or any company,  
12 corporation, or other business entity.

13 "Petroleum equipment contractor" means a person, company,  
14 or corporation that installs, repairs, or removes underground  
15 storage tanks.

16 Section 10. Licensure requirement; injunction.  
17 Beginning 6 months after the effective date of this Act, no  
18 person, firm, association, or corporation shall act as a  
19 petroleum equipment contractor or employee, advertise or  
20 assume to act as a petroleum equipment contractor or  
21 employee, or use any title implying that the person, firm,  
22 association, or corporation is engaged in such practice or  
23 occupation, unless licensed by the State Fire Marshal.

24 The State Fire Marshal, in the name of the People,  
25 through the Attorney General, the State's Attorney of any  
26 county, any resident of the State, or any legal entity within  
27 the State may apply for injunctive relief in any court to  
28 enjoin a person who has not been issued a license or whose  
29 license has been suspended, revoked, or not renewed, from  
30 practicing as a petroleum equipment contractor, and, upon the

1 filing of a verified petition, the court, if satisfied by  
2 affidavit or otherwise that the person is or has been  
3 practicing in violation of this Act, may enter a temporary  
4 restraining order or preliminary injunction, without bond,  
5 enjoining the defendant from further activity. A copy of the  
6 verified complaint shall be served upon the defendant and the  
7 proceedings shall be conducted as in other civil cases. If  
8 it is established that the defendant has been, or is  
9 practicing in violation of this Act, the court may enter a  
10 judgment perpetually enjoining the defendant from any further  
11 unlicensed activity. In the case of violation of any  
12 injunctive order or judgment entered under the provisions of  
13 this Section, the court may summarily try and punish the  
14 offender for contempt of court. Such injunctive proceeding  
15 shall be in addition to all penalties and other remedies in  
16 this Act.

17 Section 15. Deposit of fees. All fees collected  
18 pursuant to this Act shall be deposited into the Fire  
19 Prevention Fund.

20 Section 25. Rules; report. The State Fire Marshal shall  
21 promulgate rules consistent with the provisions of this Act  
22 for the administration and enforcement of this Act and may  
23 prescribe forms that shall be issued in connection with the  
24 rules promulgated under this Act. The rules shall include  
25 standards and criteria for registration, professional  
26 conduct, and discipline.

27 Section 30. Investigators. The State Fire Marshal may  
28 employ, in conformity with the Personnel Code, the  
29 professional, technical, investigative, or clerical help that  
30 may be necessary for the enforcement of this Act. Each  
31 investigator shall have a minimum of 2 years investigative

1 experience out of the preceding 5 years.

2 An investigator may not hold an active license issued  
3 pursuant to this Act or have any fiduciary interest in any  
4 business licensed under this Act. This prohibition does not  
5 prohibit the investigator from holding stock in a publicly  
6 traded business licensed or regulated under this Act,  
7 provided that the investigator does not hold more than 5% of  
8 the stock of the business.

9 Section 35. Licensure qualifications and fees.

10 (a) Applicants for a license must submit to the Office  
11 all of the following:

12 (1) fees as established by the Office;

13 (2) evidence of registration as an Illinois  
14 corporation or evidence of compliance with the Assumed  
15 Business Name Act;

16 (3) evidence of financial responsibility in a  
17 minimum amount of \$1,000,000 through liability insurance,  
18 self-insurance, group insurance, group self-insurance, or  
19 risk retention groups that must include completed  
20 operations and environmental impairment; and

21 (4) evidence of compliance with the qualifications  
22 and standards established by the Office.

23 (b) The contractor must possess a license from the  
24 Office to perform the following types of activity:

25 (1) installation of underground storage tanks;

26 (2) repair of USTs, which shall include  
27 retrofitting and installation of cathodic protection  
28 systems;

29 (3) decommissioning of USTs including abandonment  
30 in place;

31 (4) relining of USTs;

32 (5) tank and piping tightness testing;

33 (6) testing of cathodic protection systems; and

1           (7) any other category established by the Office of  
2           the State Fire Marshal.

3           (c) The Office of the Fire Marshal shall adopt rules  
4           outlining the minimum amount of training required for  
5           personnel engaged in Underground Storage Tank activity  
6           regulated under this Act.

7           Section 40. Application. Each application for a license  
8           to practice under this Act shall be in writing and signed by  
9           the applicant on forms provided by the Office of the State  
10          Fire Marshal.

11          Section 45. Issuance of license; renewal.

12          (a) The State Fire Marshal shall, upon the applicant's  
13          satisfactory completion of the requirements authorized under  
14          this Act, and upon receipt of the requisite fees, issue the  
15          appropriate license and wallet card showing the name and  
16          business location of the licensee, the dates of issuance and  
17          expiration, and shall contain a photograph of the licensee  
18          provided to the State Fire Marshal.

19          (b) Each licensee may apply for renewal of his or her  
20          license upon payment of the requisite fee. The expiration  
21          date and renewal period for each license issued under this  
22          Act shall be set by rule. Failure to renew within 60 days of  
23          the date shall cause the license to lapse. A lapsed license  
24          may not be reinstated until a written application is filed,  
25          the renewal fee is paid, and a \$50 reinstatement fee is paid.  
26          The renewal and reinstatement fees shall be waived for  
27          persons who did not renew while on active duty in the  
28          military and who file for renewal or restoration within one  
29          year after discharge from the active duty service.

30          (c) All fees paid pursuant to this Act are  
31          non-refundable.

1           Section 50.   Returned checks.   Any person who on 2  
2 occasions issues or delivers a check or other order to the  
3 State Fire Marshal that is not honored by the financial  
4 institution upon which it is drawn because of insufficient  
5 funds in his or her account, shall pay to the State Fire  
6 Marshal, in addition to the amount owing upon the check or  
7 other order, a fee of \$50.  If the check or other order was  
8 issued or delivered in payment of a renewal fee and the  
9 licensee whose license has lapsed continues to practice  
10 without paying the renewal fee and the \$50 fee required under  
11 this Section, an additional fee of \$100 shall be imposed for  
12 practicing without a current license.  The State Fire Marshal  
13 shall notify the licensee whose license has lapsed within 30  
14 days after the discovery by the State Fire Marshal that the  
15 licensee is practicing without a current license, that the  
16 person is acting as a petroleum equipment contractor or  
17 employee, as the case may be, without a license, and the  
18 amount due to the State Fire Marshal, which shall include the  
19 lapsed renewal fee and all other fees required by this  
20 Section.  If after the expiration of 30 days from the date of  
21 such notification, the licensee whose license has lapsed  
22 seeks a current license, he or she shall apply to the State  
23 Fire Marshal for reinstatement of the license and pay all  
24 fees due to the State Fire Marshal.  The State Fire Marshal  
25 may establish a fee for the processing of an application for  
26 reinstatement of a license that allows the State Fire Marshal  
27 to pay all costs and expenses incident to the processing of  
28 this application.  The State Fire Marshal may waive the fees  
29 due under this Section in individual cases where he or she  
30 finds that the fees would be unreasonable or unnecessarily  
31 burdensome.

32           Section 60.   License renewal; display of license;  
33 inspection.

1 (a) As a condition of renewal of a license, the State  
2 Fire Marshal may require the licensee to report information  
3 pertaining to his or her practice that the State Fire Marshal  
4 determines to be in the interest of public safety.

5 (b) A licensee shall report a change in home or office  
6 address within 10 days.

7 (c) Each licensee shall prominently display his or her  
8 license to practice at each place from which the practice is  
9 being performed. If more than one location is used, branch  
10 office certificates shall be issued upon payment of the fees  
11 to be established by the State Fire Marshal. Each employee  
12 shall carry on his or her person a wallet card issued by the  
13 State Fire Marshal.

14 (d) If a license or certificate is lost, a duplicate  
15 shall be issued upon payment of the required fee to be  
16 established by the State Fire Marshal. If a licensee wishes  
17 to change his or her name, the State Fire Marshal shall issue  
18 a license in the new name upon payment of the required fee  
19 and upon receipt of satisfactory proof that the change was  
20 done in accordance with law.

21 (e) Each licensee shall permit his or her facilities to  
22 be inspected by representatives of the Office of the State  
23 Fire Marshal.

24 Section 65. Disciplinary actions. Licensees shall be  
25 subject to disciplinary action for any of the following:

26 (1) obtaining or renewing a license by the use of  
27 fraud or material deception;

28 (2) being professionally incompetent as manifested  
29 by poor standards of service;

30 (3) engaging in dishonorable, unethical, or  
31 unprofessional conduct of a character likely to deceive,  
32 defraud, or harm the public in the course of professional  
33 services or activities;

1           (4) being convicted of a crime that has a  
2 substantial relationship to his or her practice or an  
3 essential element of which is misstatement, fraud, or  
4 dishonesty, being convicted in this or another state of  
5 any crime that is a felony under the laws of Illinois or  
6 of that state, or being convicted of a felony in a  
7 federal court, unless the licensee demonstrates that he  
8 or she has been sufficiently rehabilitated to warrant the  
9 public trust;

10           (5) performing any service in a grossly negligent  
11 manner or permitting any licensed employee to perform  
12 services in a grossly negligent manner, regardless of  
13 whether actual damage or damage to the public is  
14 established;

15           (6) being a habitual drunk or having a habitual  
16 addiction to the use of morphine, cocaine, controlled  
17 substances, or other habit-forming drugs;

18           (7) willfully receiving compensation, directly or  
19 indirectly, for any professional service not actually  
20 rendered;

21           (8) having disciplinary action taken against his or  
22 her license in another State;

23           (9) contracting or assisting unlicensed persons to  
24 perform services for which a license is required under  
25 this Act;

26           (10) permitting the use of his or her license to  
27 enable an unlicensed person or agency to operate as a  
28 licensee;

29           (11) performing and charging for services without  
30 having authorization to do so from the member of the  
31 public being served; or

32           (12) failing to comply with any provision of this  
33 Act or the rules adopted under this Act.

1           Section 70. Complaints. All complaints concerning  
2 violations regarding licensees or unlicensed activity shall  
3 be received and logged by the State Fire Marshal.

4           Section 75. Formal charges; hearings.

5           (a) Following the investigative process, the State Fire  
6 Marshal may file formal charges against the licensee. The  
7 formal charges shall, at a minimum, inform the licensee of  
8 the facts that comprise the basis of the charge and that are  
9 specific enough to enable the licensee to defend himself or  
10 herself.

11           (b) Each licensee whose conduct is the subject of a  
12 formal charge that seeks to impose disciplinary action  
13 against the licensee shall be served notice of the formal  
14 charge at least 30 days before the date of the hearing, which  
15 shall be presided over by a hearing officer authorized by the  
16 State Fire Marshal. Service shall be considered to have been  
17 given if the notice was personally received by the licensee  
18 or if the notice was sent by certified mail, return receipt  
19 requested, to the licensee at the licensee's last known  
20 address as listed with the State Fire Marshal.

21           (c) The notice of formal charges shall inform the  
22 licensee (i) of the time, date, and place of the hearing;  
23 (ii) that the licensee shall appear personally at the hearing  
24 and may be represented by counsel; (iii) that the licensee  
25 shall have the right to produce witnesses and evidence in his  
26 or her behalf and shall have the right to cross-examine  
27 witnesses and examine evidence produced against him or her;  
28 (iv) that the hearing could result in disciplinary action  
29 being taken against his or her license; (v) that rules for  
30 the conduct of these hearings exist and it may be in the  
31 licensee's best interest to obtain a copy; (vi) that a  
32 hearing officer authorized by the State Fire Marshal shall  
33 preside at the hearing and following the conclusion of the

1 hearing shall make findings of fact, conclusions of law, and  
2 recommendations to the State Fire Marshal as to what  
3 disciplinary action, if any, should be imposed on the  
4 licensee; and (vii) that the State Fire Marshal may continue  
5 the hearing.

6 (d) The hearing officer authorized by the State Fire  
7 Marshal shall hear the evidence produced in support of the  
8 formal charges and any contrary evidence produced by the  
9 licensee. At the conclusion of the hearing, the hearing  
10 officer shall make findings of fact, conclusions of law, and  
11 recommendations and submit them to the State Fire Marshal and  
12 to all parties to the proceeding. Submission to the licensee  
13 shall be considered as having been made if done in a similar  
14 fashion as service of the notice of formal charges. Within  
15 20 days after such service, any party to the proceeding may  
16 present to the State Fire Marshal a motion, in writing, for a  
17 rehearing that specifies the grounds for rehearing.

18 (e) The State Fire Marshal, following the time allowed  
19 for filing a motion for rehearing, shall review the hearing  
20 officer's findings of fact, conclusions of law, and  
21 recommendations and any motions filed subsequent to the  
22 findings, conclusions, and recommendations. After reviewing  
23 this information, the State Fire Marshal may hear oral  
24 arguments, prior to issuing an order. The report of findings  
25 of fact, conclusions of law, and recommendations of the  
26 hearing officer shall be the basis for the State Fire  
27 Marshal's order.

28 If the State Fire Marshal finds that substantial justice  
29 was not done, he or she may issue an order in contravention  
30 to the findings of fact, conclusions of law, and  
31 recommendations of the hearing officer. The finding is not  
32 admissible in evidence against the person in a criminal  
33 prosecution brought for the violation of this Act.

34 (f) All proceedings pursuant to this Section are matters

1 of public record and shall be preserved.

2 Section 80. Sanctions.

3 (a) The State Fire Marshal shall impose any of the  
4 following sanctions, singly or in combination, when he or she  
5 finds that a licensee is guilty of any offense described in  
6 Section 65:

7 (1) revocation;

8 (2) suspension for any period of time;

9 (3) reprimand or censure;

10 (4) placement on probationary status and  
11 requirement that the licensee submit any of the  
12 following:

13 (A) report regularly to the State Fire Marshal  
14 upon matters that are the basis of the probation;

15 (B) continue or renew professional education  
16 until a satisfactory degree of skill has been  
17 attained in those areas that are the basis of the  
18 probation; or

19 (C) any other reasonable requirements or  
20 restrictions as are proper;

21 (5) refusal to issue, renew, or restore; or

22 (6) revocation of probation that has been granted  
23 and imposition of any other discipline in this subsection

24 (a) when the requirements of probation have not been  
25 fulfilled or have been violated.

26 (b) The State Fire Marshal may summarily suspend a  
27 license under this Act, without a hearing, simultaneously  
28 with the filing of a formal complaint and notice for a  
29 hearing, if the State Fire Marshal finds that the continued  
30 operations of the individual would constitute an immediate  
31 danger to the public. In the event the State Fire Marshal  
32 suspends a license under this subsection, a hearing by the  
33 hearing officer designated by the State Fire Marshal shall be

1 held within 20 days after the suspension begins, unless  
2 continued at the request of the licensee.

3 (c) Disposition may be made of any formal complaint by  
4 consent order between the State Fire Marshal and the  
5 licensee.

6 (d) The State Fire Marshal shall reinstate a license to  
7 good standing under this Act, upon recommendation to the  
8 State Fire Marshal, after a hearing before the hearing  
9 officer authorized by the State Fire Marshal. The State Fire  
10 Marshal shall be satisfied that the applicant's renewed  
11 practice is not contrary to the public interest.

12 (e) The State Fire Marshal may conduct hearings and  
13 issue cease and desist orders to persons who engage in  
14 activities prohibited by this Act without having a valid  
15 license, certificate, or registration. Any person in  
16 violation of a cease and desist order entered by the State  
17 Fire Marshal shall be subject to all of the remedies provided  
18 by law and, in addition, shall be subject to a civil penalty  
19 payable to the party injured by the violation.

20 (f) The State Fire Marshal shall seek to achieve  
21 consistency in the application of the foregoing sanctions and  
22 consent orders and significant departure from prior decisions  
23 involving similar conduct shall be explained in the State  
24 Fire Marshal's orders.

25 (g) Upon the suspension or revocation of a license  
26 issued under this Act, a licensee shall surrender the license  
27 to the State Fire Marshal and, upon failure to do so, the  
28 State Fire Marshal shall seize the same.

29 (g-5) Any person, business, or corporation whose license  
30 has been revoked under the provisions of this Act is  
31 prohibited, for a period of 2 years from the date of  
32 revocation, from owning more than 7 1/2% of a business or  
33 corporation licensed under this Act.

34 (h) The State Fire Marshal may refuse to issue or may

1 suspend the license of any person who fails to file a return,  
2 to pay the tax, penalty, or interest shown in a filed return,  
3 or to pay any final assessment of tax, penalty, or interest,  
4 as required by any tax Act administered by the Illinois  
5 Department of Revenue, until the time that the requirements  
6 of any such tax Act are satisfied.

7 Section 85. Depositions; witnesses; judicial review.

8 (a) The State Fire Marshal has the power to subpoena and  
9 bring before him or her any person in this State and to take  
10 testimony either orally or by deposition, or both, with the  
11 same fees and mileage and in the same manner as is prescribed  
12 by law for judicial proceedings in civil cases. The State  
13 Fire Marshal and the hearing officer approved by the State  
14 Fire Marshal have the power to administer oaths at any  
15 hearing that the State Fire Marshal is authorized to conduct.

16 (b) A circuit court, upon the application of the  
17 licensee or the State Fire Marshal, may order the attendance  
18 of witnesses and the production of relevant books and papers  
19 in any hearing conducted pursuant to this Act. The court may  
20 compel obedience to its order by proceedings for contempt.

21 (c) The State Fire Marshal, at the Office's expense,  
22 shall provide a stenographer or a mechanical recording  
23 device to record the testimony and preserve a record of all  
24 proceedings at the hearing of any case wherein a license may  
25 be revoked, suspended, placed on probationary status, or  
26 other disciplinary action taken with regard to the license.  
27 The notice of hearing, the complaint, and all other documents  
28 in the nature of pleadings and written motions filed in the  
29 proceedings, the transcript of testimony, the report of the  
30 hearing officer, and the orders of the State Fire Marshal  
31 constitute the record of the proceedings. The State Fire  
32 Marshal shall furnish a transcript of the record to any  
33 interested person upon payment of the costs of copying and

1 transmitting the record.

2 (d) All final administrative decisions of the State Fire  
3 Marshal are subject to judicial review pursuant to the  
4 provisions of the Administrative Review Law and the rules  
5 adopted pursuant thereto. Proceedings for judicial review  
6 shall be commenced in the Circuit Court of the county in  
7 which the party applying for review resides. If the party  
8 applying for review is not a resident of Illinois, the venue  
9 shall be in Sangamon County. The State Fire Marshal shall not  
10 be required to certify any record to the court, file any  
11 answer in court, or otherwise appear in any court in a  
12 judicial review proceeding, unless there is filed in the  
13 court with the complaint a receipt from the State Fire  
14 Marshal acknowledging payment of the costs of furnishing and  
15 certifying the record, which costs shall be computed at the  
16 cost of preparing such record. Exhibits shall be certified  
17 without cost. Failure on the part of the licensee to file  
18 the receipt in court shall be grounds for dismissal of the  
19 action.

20 During all judicial proceedings incident to disciplinary  
21 action, the sanctions imposed upon the accused by the State  
22 Fire Marshal shall remain in effect, unless the court feels  
23 justice requires a stay of the order.

24 Section 90. Order; prima facie proof. An order or a  
25 certified copy of an order, bearing the seal of the State  
26 Fire Marshal and purporting to be signed by the State Fire  
27 Marshal, is prima facie proof that:

28 (1) the signature is that of the State Fire  
29 Marshal;

30 (2) the State Fire Marshal is qualified to act; and

31 (3) the hearing officer is qualified to act on  
32 behalf of the State Fire Marshal.

33 Such proof may be rebutted.

1           Section 95. Publication of records. The State Fire  
 2 Marshal shall, upon request, publish a list of the names and  
 3 addresses of all licensees under the provisions of this Act.

4           Section 100. Criminal penalties. A person who violates  
 5 any of the provisions of this Act shall be guilty of a Class  
 6 A misdemeanor for the first offense and shall be guilty of a  
 7 Class 4 felony for a second or subsequent offense.

8           Section 105. Home rule. The regulation and licensing of  
 9 petroleum equipment contractors are exclusive powers and  
 10 functions of the State. A home rule unit may not regulate or  
 11 license petroleum equipment contractors. This Section is a  
 12 denial and limitation of home rule powers and functions under  
 13 subsection (h) of Section 6 of Article VII of the Illinois  
 14 Constitution. However, nothing in this Act shall limit the  
 15 authority of the Office of the State Fire Marshal and a  
 16 municipality with a population over 500,000 to enter into  
 17 contracts pursuant to paragraph (b) of subsection (2) of  
 18 Section 2 of the Gasoline Storage Act.

19           Section 900. The Regulatory Sunset Act is amended by  
 20 adding Section 4.22 as follows:

21           (5 ILCS 80/4.22 new)  
 22           Sec. 4.22. Act repealed on January 1, 2012. The  
 23 following Act is repealed on January 1, 2012:  
 24           The Petroleum Equipment Contractors Licensing Act.

25           Section 905. The Gasoline Storage Act is amended by  
 26 changing Sections 2 and 7 as follows:

27           (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

1           Sec. 2. Jurisdiction; regulation of tanks.

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

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

34           (c) However, except in any county with a population of

1 1,000,000 or more, the Office of the State Fire Marshal shall  
2 not have the authority to prohibit the operation of a service  
3 station solely on the basis that it is an unattended  
4 self-service station which utilizes key or card operated  
5 self-service motor fuel dispensing devices. Nothing in this  
6 paragraph shall prohibit the Office of the State Fire Marshal  
7 from adopting reasonable rules and regulations governing the  
8 safety of self-service motor fuel dispensing devices.

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

- 24 (A) agriculture sites for agricultural purposes,  
25 (B) construction sites for refueling construction  
26 equipment used at the construction site,  
27 (C) sites used for the parking, operation, or  
28 maintenance of a commercial vehicle fleet, but only if  
29 the site is located in a county with 3,000,000 or more  
30 inhabitants or a county contiguous to a county with  
31 3,000,000 or more inhabitants and the site is not  
32 normally accessible to the public, and  
33 (D) sites used for the refueling of police, fire,  
34 or emergency medical services vehicles or other vehicles

1           that are owned, leased, or operated by (or operated under  
2           contract with) the State, a unit of local government, or  
3           a school district, or any agency of the State and that  
4           are not normally accessible to the public.

5           (2) (a) The Office of the State Fire Marshal shall adopt  
6           rules and regulations regarding underground 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 underground tanks and piping other  
10          than those which are identical to the rules and regulations  
11          of the Office of the State Fire Marshal. It is declared to  
12          be the law of this State, pursuant to paragraphs (h) and (i)  
13          of Section 6 of Article VII of the Illinois Constitution,  
14          that the establishment and enforcement of standards regarding  
15          underground storage tanks and associated piping within the  
16          jurisdiction of the Office of the State Fire Marshal is an  
17          exclusive State function which may not be exercised  
18          concurrently by a home rule unit except as expressly  
19          permitted in this Act.

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

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

1 contain petroleum or other regulated substances ~~to~~ be  
2 certified ~~to perform that activity~~, to obtain a permit to  
3 install, repair, replace, reline, or remove the particular  
4 tank system, ~~to pay an annual certification fee of \$100 per~~  
5 ~~year~~, and to pay a fee set by the Office of \$100 per site for  
6 a permit to install, repair, replace, reline, upgrade, test,  
7 or remove any portion of an underground storage tank system.  
8 All persons who do repairs above grade level for themselves  
9 need not pay a fee or be certified. All fees received by the  
10 Office from certification and permits shall be deposited in  
11 the Fire Prevention Fund for the exclusive use of the Office  
12 in administering the Underground Storage Tank program.

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

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

1 storage tanks. Regulations adopted pursuant to this  
2 subsection shall be adopted in accordance with the procedures  
3 for rulemaking in Section 5-35 of the Illinois Administrative  
4 Procedure Act.

5 (c) The Office of the State Fire Marshal shall require  
6 any person, corporation or other entity who tests an  
7 underground tank or its piping or cathodic protection for  
8 another, ~~except a lesser for his or her lessee, to register~~  
9 ~~with the Office, and pay an annual registration fee of \$100,~~  
10 ~~to be deposited in the Fire Prevention Fund, and~~ to report  
11 the results of such test to the Office.

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

15 (i) Inspecting and investigating to ascertain  
16 possible violations of this Act, of regulations  
17 thereunder or of permits or terms or conditions thereof;  
18 or

19 (ii) In accordance with the provisions of this Act,  
20 taking whatever emergency action, that is necessary or  
21 appropriate, to assure that the public health or safety  
22 is not threatened whenever there is a release or a  
23 substantial threat of a release of petroleum or a  
24 regulated substance from an underground storage tank.

25 (e) The Office of the State Fire Marshal may issue an  
26 Administrative Order to any person who it reasonably believes  
27 has violated the rules and regulations governing underground  
28 storage tanks, including the installation, repair, leak  
29 detection, cathodic protection tank testing, removal or  
30 release notification. Such an order shall be served by  
31 registered or certified mail or in person. Any person served  
32 with such an order may appeal such order by submitting in  
33 writing any such appeal to the Office within 10 days of the  
34 date of receipt of such order. The Office shall conduct an

1 administrative hearing governed by the Illinois  
2 Administrative Procedure Act and enter an order to sustain,  
3 modify or revoke such order. Any appeal from such order shall  
4 be to the circuit court of the county in which the violation  
5 took place and shall be governed by the Administrative Review  
6 Law.

7 (f) The Office of the State Fire Marshal shall not  
8 require the removal of an underground tank system taken out  
9 of operation before January 2, 1974, except in the case in  
10 which the office of the State Fire Marshal has determined  
11 that a release from the underground tank system poses a  
12 current or potential threat to human health and the  
13 environment. In that case, and upon receipt of an Order from  
14 the Office of the State Fire Marshal, the owner or operator  
15 of the nonoperational underground tank system shall assess  
16 the excavation zone and close the system in accordance with  
17 regulations promulgated by the Office of the State Fire  
18 Marshal.

19 (4) (a) The Office of the State Fire Marshal shall adopt  
20 rules and regulations regarding aboveground storage tanks and  
21 associated piping and no municipality or other political  
22 subdivision shall adopt or enforce any ordinances or  
23 regulations regarding such aboveground tanks and piping other  
24 than those which are identical to the rules and regulations  
25 of the Office of the State Fire Marshal unless, in the  
26 interest of fire safety, the Office of the State Fire Marshal  
27 delegates such authority to municipalities, political  
28 subdivisions or home rule units. It is declared to be the  
29 law of this State, pursuant to paragraphs (h) and (i) of  
30 Section 6 of Article VII of the Illinois Constitution, that  
31 the establishment of standards regarding aboveground storage  
32 tanks and associated piping within the jurisdiction of the  
33 Office of the State Fire Marshal is an exclusive State  
34 function which may not be exercised concurrently by a home

1 rule unit except as expressly permitted in this Act.

2 (b) The Office of the State Fire Marshal shall enforce  
3 its rules and regulations concerning aboveground storage  
4 tanks and associated piping; however, municipalities may  
5 enforce any of their zoning ordinances or zoning regulations  
6 regarding aboveground tanks. The Office of the State Fire  
7 Marshal may issue an administrative order to any owner of an  
8 aboveground storage tank and associated piping it reasonably  
9 believes to be in violation of such rules and regulations to  
10 remedy or remove any such violation. Such an order shall be  
11 served by registered or certified mail or in person. Any  
12 person served with such an order may appeal such order by  
13 submitting in writing any such appeal to the Office within 10  
14 days of the date of receipt of such order. The Office shall  
15 conduct an administrative hearing governed by the Illinois  
16 Administrative Procedure Act and enter an order to sustain,  
17 modify or revoke such order. Any appeal from such order  
18 shall be to the circuit court of the county in which the  
19 violation took place and shall be governed by the  
20 Administrative Review Law.

21 (Source: P.A. 91-851, eff. 1-1-01.)

22 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

23 Sec. 7. (a) A violation of:

24 (1) paragraph (a) or (b) of subsection (3) of  
25 Section 2 of this Act is a business offense punishable by  
26 a fine of not more than \$10,000 per day;

27 (2) ~~(blank); paragraph (c) of subsection (3) of~~  
28 ~~Section 2 is a petty offense punishable by a fine of not~~  
29 ~~less than \$100 nor more than \$500 per tank tested;~~

30 (3) Section Sections 4 and 5 of this Act is a  
31 business offense punishable by a fine of not more than  
32 \$10,000 per day;

33 (3.5) Section 3.5 of this Act is a business offense

1 punishable by fine of not more than \$10,000 per offense;

2 (4) an administrative order as described in  
3 paragraph (e) of subsection (3) of Section 2, paragraph  
4 (b) of subsection (4) of Section 2 or subsection (c) of  
5 Section 6 after it has become final is a business offense  
6 punishable by a fine of not less than \$1,000 nor more  
7 than \$25,000 per day;

8 (5) any other rule promulgated by the Office of the  
9 State Fire Marshal is a business offense punishable by a  
10 fine of not less than \$100 nor more than \$1,000 for each  
11 offense or each day of continued violation.

12 (b) (Blank). ~~The--State--Fire--Marshal--may--suspend--or~~  
13 ~~revoke--the--registration--of--any--person--who--has--violated--the~~  
14 ~~rules--of--the--State--Fire--Marshal--after--notice--and--opportunity~~  
15 ~~for--an--Administrative--hearing--which--shall--be--governed--by--the~~  
16 ~~Illinois--Administrative--Procedure--Act.--Any--appeal--from--such~~  
17 ~~suspension--or--revocation--shall--be--to--the--circuit--court--of--the~~  
18 ~~county--in--which--the--hearing--was--held--and--be--governed--by--the~~  
19 ~~Administrative--Review--Law.~~

20 (c) A civil action to recover such fines may be brought  
21 by the Attorney General or the State's Attorney of the county  
22 in which the violation occurred.

23 (d) Any monies received by the State under this Section  
24 shall be deposited into the Underground Storage Tank Fund.

25 (Source: P.A. 90-662, eff. 7-30-98.)

26 Section 999. Effective date. This Act takes effect upon  
27 becoming law.