

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. This Act may be cited as the Petroleum  
5 Equipment Contractor and Employee Regulation Act.

6 Section 5. Definitions. As used in this Act:

7 "Employee" means an individual who is employed by a  
8 contractor to supervise UST activities at the location of UST  
9 activity.

10 "Contractor" means a person, excluding employees, who  
11 performs any UST activity.

12 "Office" means the Office of the State Fire Marshal.

13 "Person" means an individual, trust, firm, partnership,  
14 jointstock company, corporation, federal agency, state,  
15 municipality, commission, unit of local government, or  
16 political subdivision of a state or an interstate body.  
17 "Person" also includes consortium, joint venture, commercial  
18 entity, or the United States Government.

19 "UST" means underground storage tank system as that term  
20 is defined in the Gasoline Storage Act or any successor Act.

21 "UST activity" means a UST installation, including  
22 retrofitting and cathodic protection installation; repair,  
23 including upgrade, which includes retrofitting and cathodic  
24 protection installation; removal or decommissioning, which  
25 includes abandonment-in-place; relining; tank tightness  
26 testing; or cathodic protection testing.

27 Section 10. License; enforcement; failure to pay tax.  
28 No person shall act as a petroleum equipment contractor or  
29 employee, advertise or assume to act as such, or use any  
30 title implying that such person is engaged in that practice

1 or occupation unless licensed by the State Fire Marshal.

2 No firm, association, or corporation shall act as an  
3 agency licensed under this Act, or advertise, assume to act  
4 as such, or use any title implying that such firm,  
5 association, or corporation is engaged in such practice,  
6 unless licensed by the State Fire Marshal.

7 The State Fire Marshal, in the name of the People,  
8 through the Attorney General, the State's Attorney of any  
9 county, any resident of the State, or any legal entity within  
10 the State may apply for injunctive relief in any court to  
11 enjoin a person who has not been issued a license or whose  
12 license has been suspended, revoked, or not renewed, from  
13 practicing a licensed activity. Upon the filing of a  
14 verified petition in the court, the court if satisfied, by  
15 affidavit or otherwise, that a person is or has been  
16 practicing in violation of this Act may enter a temporary  
17 restraining order or preliminary injunction without bond,  
18 enjoining the defendant from further unlicensed activity. A  
19 copy of the verified complaint shall be served upon the  
20 defendant and the proceedings shall thereafter be conducted  
21 as in other civil cases. If it is established that the  
22 defendant has been or is practicing in violation of this Act,  
23 the court may enter a judgment perpetually enjoining the  
24 defendant from such further activity. In case of violation  
25 of any injunctive order or judgment entered under the  
26 provisions of this Section, the court may summarily try and  
27 punish the offender for contempt of court. Such injunctive  
28 proceeding shall be in addition to all penalties and other  
29 remedies provided for in this Act.

30 The State Fire Marshal may refuse to issue or may suspend  
31 the license of any person who fails to file a return, to pay  
32 the tax, penalty, or interest shown in a filed return, or to  
33 pay any final assessment of tax, penalty or interest, as  
34 required by any tax Act administered by the Illinois

1 Department of Revenue, until such time as the requirements of  
2 any such tax Act are satisfied.

3 Section 15. Application. This Act shall not apply to an  
4 officer or employee of this State or of any political  
5 subdivision of this State or the United States while the  
6 officer or employee is engaged in the performance of his or  
7 her official duties within the course and scope of his or her  
8 employment. However, a person who offers his or her services  
9 as a private petroleum equipment contractor or employee, or  
10 any title where similar services are performed for  
11 compensation, fee, or other valuable consideration, whether  
12 received directly or indirectly, shall be subject to this Act  
13 and its licensing requirements.

14 Section 20. Fund. All fees collected pursuant to this  
15 Act shall be deposited into the Fire Prevention Fund.

16 Section 25. Petroleum Equipment Contractor and Employee  
17 Advisory Board. There is created the Petroleum Equipment  
18 Contractor and Employee Advisory Board consisting of 9  
19 members to be appointed by the Governor as soon as  
20 practicable after the effective date of this Act. Two of the  
21 members shall be owners of underground storage tanks, one  
22 shall be licensed as an UST installer, one shall be licensed  
23 as an UST repairer, one shall be licensed as an UST  
24 decommissioner, one shall be an UST reliner, one shall be  
25 licensed as a tank tightness tester, one shall be licensed by  
26 this Act, and one shall be a public member who is not  
27 licensed under this Act or a similar Act of another  
28 jurisdiction and who has no connection with any business  
29 licensed under this Act. The State Fire Marshal shall be an  
30 ex officio member of the Board. Each member shall be a  
31 resident of Illinois. After 7 years from the effective date

1 of this Act, each subsequent licensed appointment to the  
2 Board shall have a minimum of 5 years experience as a  
3 licensee in the field in which the person is licensed, be an  
4 officer in a licensed petroleum equipment contractor company,  
5 and be actively engaged in the fire equipment business. The  
6 membership shall reasonably reflect representation from all  
7 geographic areas in this State.

8 Board members shall serve 4 year terms and may serve  
9 until their successors are appointed and qualified. However,  
10 in making initial appointments, one member shall be appointed  
11 to serve for one year, 2 shall be appointed to serve for 2  
12 years, 2 shall be appointed to serve for 3 years, the  
13 remaining members, one of whom shall be the public member,  
14 shall be appointed to serve for 4 years. Appointments to  
15 fill vacancies shall be made in the same manner as original  
16 appointments for the unexpired portion of the vacated term.  
17 Initial terms shall begin upon the effective date of this  
18 Act. Board members may not serve more than 2 consecutive  
19 terms.

20 A member of the Board may be removed from office for just  
21 cause. A member subject to formal disciplinary proceedings  
22 must disqualify himself or herself from Board business until  
23 the charge is resolved. A member also must disqualify  
24 himself or herself from any matter on which the member may  
25 not objectively make a decision.

26 Board members shall receive no compensation but shall be  
27 reimbursed for expenses incurred in connection with their  
28 duties as Board members.

29 A majority of Board members then appointed shall  
30 constitute a quorum. A majority vote of the quorum is  
31 required for a Board decision.

32 The Board shall elect from its membership a chair and  
33 other officers, as it may deem necessary.

34 Board members shall not be liable for any of their acts,

1 omissions, decisions, or any other conduct in connection with  
2 their duties on the Board, except those involving willful,  
3 wanton, or intentional misconduct.

4 Section 30. Rules; advice; report.

5 (a) The State Fire Marshal shall promulgate rules  
6 consistent with the provisions of this Act, for the  
7 administration and enforcement of this Act, and may prescribe  
8 forms that shall be issued in connection therewith. The  
9 rules shall include standards and criteria for registration,  
10 professional conduct, licensing fees, and discipline. The  
11 State Fire Marshal shall consult with the Board in  
12 promulgating all rules under this Act.

13 (b) The Board may propose to the State Fire Marshal  
14 additions or modifications to administrative rules whenever a  
15 majority of the members believes the rules are deficient for  
16 the proper administration of this Act.

17 (c) The State Fire Marshal may solicit the advice and  
18 expert knowledge of the Board on any matter relating to the  
19 administration and enforcement of this Act.

20 (d) The State Fire Marshal shall issue to the Board  
21 prior to each Board meeting, but not less than quarterly, a  
22 report of the status of all convictions related to the  
23 profession received by the State Fire Marshal.

24 (e) The Board may have any other powers as may be  
25 granted by the State Fire Marshal to carry out the provisions  
26 of this Act.

27 Section 35. Personnel necessary for enforcement. The  
28 State Fire Marshal may employ, in conformity with the  
29 Personnel Code, such professional, technical, investigative,  
30 or clerical help, on either a full or part-time basis, as may  
31 be necessary for the enforcement of this Act.

32 No investigator may hold an active license issued

1 pursuant to this Act nor may an investigator have a fiduciary  
2 interest in a business licensed under this Act. This  
3 prohibition does not prohibit an investigator from holding  
4 stock in a publicly-traded business licensed or regulated  
5 under this Act provided that an investigator does not hold  
6 more than 5% of the stock of the publicly-traded business.

7 Section 40. National standards to serve as guide;  
8 training.

9 (a) In the promulgation of rules relating to petroleum  
10 equipment contractors and employees, the State Fire Marshal  
11 shall be guided by the national fire safety standards and  
12 codes and the fire equipment and facility standards and code,  
13 including but not limited to those promulgated by the  
14 National Fire Protection Association and the United States  
15 Environmental Protection Agency.

16 (b) The State Fire Marshal may, by rule, establish  
17 procedures for an applicant for any class fire equipment  
18 employee license to work for a licensed petroleum equipment  
19 contractor for training.

20 Section 45. Licensure requirements and fees.  
21 Implementation of this Section shall begin on January 1,  
22 2002. On or after April 1, 2002, no person shall engage in  
23 any activity described in this Section without first applying  
24 for and obtaining a license for such purpose from the Office  
25 of the State Fire Marshal. The Office shall establish  
26 reasonable fees as required by this Act.

27 Applicants for a license must submit to the Office all of  
28 the following:

- 29 (1) fees as established by the Office;  
30 (2) evidence of registration as an Illinois corporation  
31 or evidence of compliance with the Assumed Business Name Act;  
32 (3) evidence of financial responsibility in a minimum

1 amount of \$1,000,000 through liability insurance,  
2 self-insurance, group insurance, group self-insurance, or  
3 risk retention groups that must include completed operations  
4 and environmental impairment; and

5 (4) evidence of compliance with the qualifications and  
6 standards established by the Office.

7 The Office must license contractors for the following  
8 types of activity:

9 (a) installers of underground storage tanks;

10 (b) repairers of USTs, which shall include  
11 retrofitting and installation of cathodic protection  
12 systems;

13 (c) decommissioning or USTs including abandonment  
14 in place;

15 (d) relining of USTs;

16 (e) tank and piping tightness testing; and

17 (f) testing of cathodic protection systems.

18 (d) Each contractor must have at least one employee who  
19 is licensed for the appropriate type of activity. An  
20 employee license for each activity shall be issued to an  
21 applicant who has passed the examination or otherwise met the  
22 requirements established by the Office, paid the annual  
23 license fee for each activity to be licensed, and provided a  
24 current photograph at least 1" X 1" in size.

25 Section 50. Application for license. Each application  
26 for a license to practice under this Act shall be in writing  
27 and signed by the applicant on forms provided by the State  
28 Fire Marshal.

29 Section 55. Examination.

30 (a) Applicants for licensure shall be examined as  
31 provided in this Section if they are qualified to be examined  
32 pursuant to this Act. All applicants who are admitted to the

1 examination must be evaluated upon the same standards as  
2 others being examined for the respective license.

3 (b) Examination for licensure shall be at such times and  
4 places as the State Fire Marshal may determine, but must be  
5 given at least quarterly.

6 (c) Examinations shall test the minimum amount of  
7 knowledge and skill needed to perform the duties set forth in  
8 the definition of the license and be in the interest of  
9 protection of the public. The State Fire Marshal may  
10 contract with a testing service for the preparation and  
11 conduct of the examinations or may utilize an existing  
12 examination or certification process.

13 Section 60. Rules for licensure without examination.  
14 The State Fire Marshal shall promulgate rules for licensure  
15 without examination and may issue licenses under this Act  
16 without examination, on payment of the required fee, for an  
17 applicant who is registered under the laws of another state,  
18 territory, or country, if the requirements for registration  
19 in the jurisdiction in which the applicant was licensed were,  
20 at the date of his registration, substantially equal to the  
21 requirements then in force in this State.

22 Section 65. Issuance of license and wallet card; renewal;  
23 fees nonrefundable.

24 (a) The State Fire Marshal shall, upon the applicant's  
25 satisfactory completion of the requirements authorized under  
26 this Act, and upon receipt of the requisite fees, issue the  
27 appropriate license and wallet card showing the name and  
28 business location of the licensee, the dates of issuance and  
29 expiration, and the photograph of the licensee provided to  
30 the State Fire Marshal.

31 (b) Each licensee may apply for renewal of his or her  
32 license upon the payment of fees, as set forth in this Act.



1 The expiration date and renewal period for each license  
2 issued under this Act shall be set by rule. Failure to renew  
3 within 60 days of the date of expiration shall cause the  
4 license to lapse. A license that has lapsed may not be  
5 reinstated until a written application is filed, the renewal  
6 fee is paid, and a reinstatement fee is paid. Renewal and  
7 reinstatement fees shall be waived for persons who did not  
8 renew while on active duty in the military and who file for  
9 renewal or restoration within 1 year after discharge from  
10 military service. A license that has lapsed may not be  
11 reinstated after 5 years from the date that the license  
12 lapsed except if the licensee passes a fitness examination  
13 and pays the required fees.

14 (c) All fees paid pursuant to this Act are  
15 non-refundable.

16 Section 70. Insufficient funds checks. Any person who on  
17 2 occasions issues or delivers a check or other order to the  
18 State Fire Marshal that is not honored by the financial  
19 institution upon which it is drawn because of insufficient  
20 funds on account, shall pay to the State Fire Marshal, in  
21 addition to the amount owing upon the check or other order, a  
22 fee of \$50. If the check or other order was issued or  
23 delivered in payment of a renewal fee and the licensee whose  
24 license has lapsed continues to practice without paying the  
25 renewal fee and the \$50 fee required under this Section, an  
26 additional fee of \$100 shall be imposed for practicing  
27 without a current license. The State Fire Marshal shall  
28 notify the licensee whose license has lapsed, within 30 days  
29 after the discovery by the State Fire Marshal that the  
30 licensee is practicing without a current license, that the  
31 individual, person, or distributor is acting as a petroleum  
32 equipment contractor or employee, as the case may be, without  
33 a license, and the amount due to the State Fire Marshal,

1 which shall include the lapsed renewal fee and all other fees  
2 required by this Section. If after the expiration of 30 days  
3 from the date of the notification, the licensee whose license  
4 has lapsed seeks a current license, he or she shall apply to  
5 the State Fire Marshal for reinstatement of the license and  
6 pay all fees due to the State Fire Marshal. The State Fire  
7 Marshal may establish a fee for the processing of an  
8 application for reinstatement of a license that allows the  
9 State Fire Marshal to pay all costs and expenses incident to  
10 the processing of this application. The State Fire Marshal  
11 may waive the fees due under this Section in individual cases  
12 where he or she finds that the fees would be unreasonable or  
13 unnecessarily burdensome.

14 Section 75. Conditions of renewal; physical examination.

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

19 (b) The State Fire Marshal may order a licensee to  
20 submit to a reasonable physical examination if his or her  
21 physical capacity to practice safely is at issue in a  
22 disciplinary proceeding.

23 (c) A licensee who fails to comply with a State Fire  
24 Marshal order to submit to a physical examination shall be  
25 subject to the summary suspension procedures as provided in  
26 this Act.

27 (d) A licensee shall report a change in his or her home  
28 or office address within 10 days of when it occurs.

29 (e) Each licensee shall prominently display his or her  
30 license to practice at each place from which the practice is  
31 being performed. If more than one location is used, branch  
32 office certificates shall be issued upon payment of the fees  
33 to be established by the State Fire Marshal. Each fire

1 equipment employee shall carry on his or her person a wallet  
2 card issued by the State Fire Marshal.

3 (f) If a license or certificate is lost, a duplicate  
4 shall be issued upon payment of the required fee to be  
5 established by the State Fire Marshal. If a licensee wants  
6 to change his or her name, the State Fire Marshal shall issue  
7 a license in the new name upon satisfactory proof that the  
8 change was done in accordance with the law and upon the  
9 payment of the required fee.

10 (g) Each licensee shall permit his or her facilities and  
11 sites where UST activities are being performed to be  
12 inspected by representatives of the State Fire Marshal.

13 Section 80. Grounds for discipline. Licensees subject to  
14 this Act shall conduct their practice in accordance with this  
15 Act and with any rules promulgated pursuant to this Act.  
16 Licensees shall be subject to the exercise of the  
17 disciplinary sanctions enumerated in Section 90 if the State  
18 Fire Marshal finds that a licensee is guilty of any of the  
19 following:

20 (1) fraud or material deception in obtaining or renewing  
21 of a license;

22 (2) professional incompetence as manifested by poor  
23 standards of service;

24 (3) engaging in dishonorable, unethical, or  
25 unprofessional conduct of a character likely to deceive,  
26 defraud, or harm the public in the course of his or her  
27 professional services or activities;

28 (4) conviction of a crime by a licensee that has a  
29 substantial relationship to his or her practice or an  
30 essential element of which is misstatement, fraud, or  
31 dishonesty, or conviction in this or another state of a crime  
32 that is a felony under the laws of Illinois or conviction of  
33 a felony in a federal court, unless the licensee demonstrates

1 that he or she has been sufficiently rehabilitated to warrant  
2 the public trust;

3 (5) performing any service in a grossly negligent manner  
4 or permitting any of his or her licensed employees to perform  
5 services in a grossly negligent manner, regardless of whether  
6 actual damage to the public is established;

7 (6) habitual drunkenness or habitual addiction to the  
8 use of morphine, cocaine, controlled substances, or other  
9 habit-forming drugs;

10 (7) directly or indirectly willfully receiving  
11 compensation for any professional services not actually  
12 rendered;

13 (8) having disciplinary action taken against his or her  
14 license in another state;

15 (9) making differential treatment against any person to  
16 his or her detriment because of race, color, creed, sex,  
17 religion, or national origin;

18 (10) engaging in unprofessional conduct;

19 (11) engaging in false or misleading advertising;

20 (12) contracting or assisting unlicensed persons to  
21 perform services for which a license is required under this  
22 Act;

23 (13) permitting the use of his or her license to enable  
24 an unlicensed person or agency to operate as a licensee;

25 (14) performing and charging for services without having  
26 authorization to do so from the member of the public being  
27 serviced;

28 (15) failure to comply with any provision of this Act or  
29 the rules promulgated pursuant to this Act;

30 (16) conducting business regulated by this Act without  
31 possessing a currently valid license;

32 (17) violation of laws, or the rules adopted under this  
33 Act, relating to UST standards, health and safety  
34 regulations, or permit conditions; and

1 (18) failure to obtain permits for UST activity.

2 Section 85. Complaints. All complaints concerning  
3 violations regarding licensees or unlicensed activity shall  
4 be received and logged by the State Fire Marshal and reported  
5 to the Board.

6 Section 90. Formal charges; hearing.

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

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

22 (c) The notice of formal charge shall consist at a  
23 minimum of the following information:

- 24 (1) the time, place, and date of the hearing;
- 25 (2) that the licensee shall appear personally at  
26 the hearing and may be represented by counsel;
- 27 (3) that the licensee shall have the right to  
28 produce witnesses and evidence on his or her behalf and  
29 shall have the right to cross-examine witnesses and  
30 dispute the evidence produced against him or her;
- 31 (4) that the hearing could result in disciplinary  
32 action being taken against his or her license;

1           (5) that rules for the conduct of these hearings  
2 exist and that it may be in his or her best interest to  
3 obtain a copy;

4           (6) that the hearing officer authorized by the  
5 State Fire Marshal shall preside at the hearing and  
6 following the conclusion of the hearing shall make  
7 findings of fact, conclusions of law, and  
8 recommendations, separately stated, to the State Fire  
9 Marshal as to what disciplinary action, if any, should be  
10 imposed on the licensee; and

11           (7) the State Fire Marshal may continue a hearing.

12           (d) The hearing officer authorized by the State Fire  
13 Marshal shall hear the evidence produced in support of the  
14 formal charges and any contrary evidence produced by the  
15 licensee. At the conclusion of the hearing, the hearing  
16 officer shall make findings of fact, conclusions of law, and  
17 recommendations, separately stated, and submit them to the  
18 State Fire Marshal and to all parties to the proceeding.  
19 Submission to the licensee shall be considered as having been  
20 made if done in a similar fashion as service of the notice of  
21 formal charges. Within 20 days after such service, any party  
22 to the proceeding may present to the State Fire Marshal a  
23 written motion for a rehearing stating the specific grounds  
24 for the request.

25           (e) The State Fire Marshal, following the time allowed  
26 for filing a motion for rehearing, shall review the hearing  
27 officer's findings of fact, conclusions of law, and  
28 recommendations, and any motions filed subsequent to the  
29 findings, conclusions, or recommendations. After reviewing  
30 the information the State Fire Marshal may hear oral  
31 arguments, after which he or she shall issue an order. The  
32 report of the findings of fact, conclusions of law, and  
33 recommendations of the hearing officer shall be the basis for  
34 the State Fire Marshal's order. If the State Fire Marshal

1 finds that substantial justice was not done, he or she may  
2 issue an order in contravention of the findings, conclusions,  
3 or recommendations of the hearing officer. The State Fire  
4 Marshal shall provide the Board with a written explanation of  
5 any deviation from the previous ruling and shall specify with  
6 particularity the reasons for the deviation. The finding is  
7 not admissible in evidence against the person in a criminal  
8 prosecution brought for the violation of this Act.

9 (f) All proceedings pursuant to this Section are matters  
10 of public record and shall be preserved.

11 Section 95. Sanctions.

12 (a) The State Fire Marshal shall impose any of the  
13 following sanctions, singly or in combination, when he or she  
14 finds that a licensee is guilty of any offense described in  
15 subsection (a) of Section 80:

- 16 (1) revocation of the license;
- 17 (2) suspension of the license for any period of  
18 time;
- 19 (3) reprimand or censure of the licensee;
- 20 (4) placement of the license on probationary  
21 status;
- 22 (5) requirement of the submission of any of the  
23 following:
  - 24 (i) regular reporting to the Board or State  
25 Fire Marshal upon matters that are the basis of the  
26 probation;
  - 27 (ii) continuing or renewing professional  
28 education until a satisfactory degree of skill has  
29 been attained in those areas that are the basis of  
30 the probation; or
  - 31 (iii) other reasonable requirements or  
32 restrictions as are proper;
- 33 (6) Refusal to issue, renew, or restore the

1 license; and

2 (7) Revocation of probation that has been granted  
3 and imposition of any other disciplinary measures in this  
4 subsection (a) when the requirements of probation have  
5 not been fulfilled or have been violated.

6 (b) The State Fire Marshal may summarily suspend a  
7 license under this Act, without a hearing, simultaneously  
8 with the filing of a formal complaint and notice for a  
9 hearing provided under this Section if the State Fire Marshal  
10 finds that the continued operations of the individual would  
11 constitute an immediate danger to the public. In the event  
12 that the State Fire Marshal suspends a license under this  
13 subsection, a hearing by the hearing officer designated by  
14 the State Fire Marshal shall be held within 20 days after the  
15 suspension begins, unless the hearing is continued at the  
16 request of the licensee.

17 (c) Disposition may be made of any formal complaint by a  
18 consent order between the State Fire Marshal and the  
19 licensee, but the Board must be apprised of the full content  
20 of the consent order in a timely way.

21 (d) The State Fire Marshal shall reinstate a licensee to  
22 good standing under this Act, upon recommendation to the  
23 State Fire Marshal, after a hearing before the hearing  
24 officer authorized by the State Fire Marshal. The State Fire  
25 Marshal shall be satisfied that the applicant's renewed  
26 practice is not contrary to the public interest.

27 (e) The State Fire Marshal may conduct hearings and  
28 issue cease and desist orders to persons who engage in  
29 activities prohibited by this Act without having a valid  
30 license, certificate, or registration. A person in violation  
31 of a cease and desist order entered by the State Fire Marshal  
32 shall be subject to all of the remedies provided by law and,  
33 in addition, shall be subject to a civil penalty payable to  
34 the party injured by the violation.



1 (f) The State Fire Marshal shall seek to achieve  
2 consistency in the application of the foregoing sanctions and  
3 consent orders and significant departure from prior decisions  
4 involving similar conduct shall be explained in the State  
5 Fire Marshal's orders.

6 Section 100. Subpoena power; production of evidence;  
7 surrender of license.

8 (a) The State Fire Marshal has the power to subpoena and  
9 bring before it 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) Any 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 pursuant to this Act. The court may compel  
20 obedience to its order by proceedings for contempt.

21 (c) The State Fire Marshal, at its expense, shall  
22 provide a stenographer or a mechanical recording device to  
23 record the testimony and preserve a record of all proceedings  
24 at the hearing of any case wherein a license may be revoked,  
25 suspended, placed on probationary status, or other  
26 disciplinary action taken with regard to the licensee. The  
27 notice of hearing, complaint, and all other documents in the  
28 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 must 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. The proceedings for judicial  
6 review must be commenced in the Circuit Court of the county  
7 in which the party applying for review resides, but if the  
8 party is not a resident of Illinois, the venue shall be in  
9 Sangamon County. The State Fire Marshal shall not be  
10 required to certify any record to the court, file any answer  
11 in the court, or otherwise appear in any court in a judicial  
12 review proceeding, unless there is filed in the court with  
13 the complaint a receipt from the State Fire Marshal  
14 acknowledging payment of the costs of furnishing and  
15 certifying the record, which costs shall be computed at the  
16 cost of preparing the 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. During all judicial proceedings incident to a  
20 disciplinary action, the sanctions imposed upon the accused  
21 by the State Fire Marshal shall remain in effect, unless the  
22 court feels justice requires a stay of the order.

23 (e) An order of revocation, suspension, placing the  
24 license on probationary status, or other formal disciplinary  
25 action as the State Fire Marshal may deem proper, or a  
26 certified copy of the order, bearing the seal of the State  
27 Fire Marshal and purporting to be signed by the State Fire  
28 Marshal, is prima facie proof that:

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

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

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

34 This proof may be rebutted.

1 (f) Upon the suspension or revocation of a license  
2 issued under this Act, a licensee must surrender the license  
3 to the State Fire Marshal and upon failure to do so, the  
4 State Fire Marshal shall seize the same.

5 (g) The State Fire Marshal shall, upon request, publish  
6 a list of the names and addresses of all licensees under the  
7 provisions of this Act. The State Fire Marshal shall publish  
8 annually a list of all persons whose licenses have been  
9 suspended or revoked or who have been disciplined within that  
10 year, and a quarterly list of each individual who was denied  
11 employment status because of a criminal history, together  
12 with any other information as he or she may deem of interest  
13 to the public.

14 Section 105. Penalties.

15 (a) Any natural person who violates any of the following  
16 provisions shall be guilty of a Class A misdemeanor for the  
17 first offense and a corporation or other business entity that  
18 violates any of the following provision commits a business  
19 offense punishable by a fine of up to \$10,000:

20 (1) the practice of or attempted practice as a  
21 petroleum equipment contractor or employee without a  
22 license;

23 (2) the obtaining of or the attempting to obtain a  
24 license, practice or business, or any other thing of  
25 value by fraudulent representation; and

26 (3) the permitting, directing, or authorizing of  
27 any person in the employ of, under the direction of, or  
28 under the supervision of a licensee if that individual  
29 does not possess an appropriate valid license.

30 Whenever any person is punished as a repeat offender  
31 under this Section, the State Fire Marshal may proceed to  
32 obtain a permanent injunction against the person.

33 If any person in making an oath or affidavit required by

1 this Act swears falsely, that person is guilty of perjury and  
2 upon conviction may be punished accordingly.

3 A person who violates a Section of this Act other than  
4 this Section shall be guilty of a Class A misdemeanor for the  
5 first offense.

6 A second or subsequent offense in violation of a Section  
7 of this Act, including this Section, is a Class 4 felony.

8 Section 110. Administration and enforcement. The Office  
9 may issue rules, consistent with the provisions of this Act,  
10 for the administration, fees, and enforcement of this Act and  
11 may prescribe forms that shall be used in connection with the  
12 provisions of this Act.

13 Section 115. The Regulatory Sunset Act is amended by  
14 adding Section 4.22 as follows:

15 (5 ILCS 80/4.22 new)

16 Sec. 4.22. Act repealed on January 1, 2012. The  
17 following Act is repealed on January 1, 2012:

18 The Petroleum Equipment Contractor and Employee  
19 Regulation Act.

20 Section 900. The Gasoline Storage Act is amended by  
21 changing Sections 2 and 7 as follows:

22 (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

23 Sec. 2. Jurisdiction; regulation of tanks.

24 (1) (a) Except as otherwise provided in this Act, the  
25 jurisdiction of the Office of the State Fire Marshal under  
26 this Act shall be concurrent with that of municipalities and  
27 other political subdivisions. The Office of the State Fire  
28 Marshal has power to promulgate, pursuant to the Illinois  
29 Administrative Procedure Act, reasonable rules and

1 regulations governing the keeping, storage, transportation,  
2 sale or use of gasoline and volatile oils, ~~including rules~~  
3 ~~requiring that underground storage tank contractors file a~~  
4 ~~bond or a certificate of insurance with the State Fire~~  
5 ~~Marshal, and rules governing the dismantling of abandoned~~  
6 ~~bulk storage plants.~~ Nothing in this Act shall relieve any  
7 person, corporation, or other entity from complying with any  
8 zoning ordinance of a municipality or home rule unit enacted  
9 pursuant to Section 11-13-1 of the Illinois Municipal Code or  
10 any ordinance enacted pursuant to Section 11-8-4 of the  
11 Illinois Municipal Code.

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

29 (c) However, except in any county with a population of  
30 1,000,000 or more, the Office of the State Fire Marshal shall  
31 not have the authority to prohibit the operation of a service  
32 station solely on the basis that it is an unattended  
33 self-service station which utilizes key or card operated  
34 self-service motor fuel dispensing devices. Nothing in this

1 paragraph shall prohibit the Office of the State Fire Marshal  
2 from adopting reasonable rules and regulations governing the  
3 safety of self-service motor fuel dispensing devices.

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

- 19 (A) agriculture sites for agricultural purposes,
- 20 (B) construction sites for refueling construction  
21 equipment used at the construction site,
- 22 (C) sites used for the parking, operation, or  
23 maintenance of a commercial vehicle fleet, but only if  
24 the site is located in a county with 3,000,000 or more  
25 inhabitants or a county contiguous to a county with  
26 3,000,000 or more inhabitants and the site is not  
27 normally accessible to the public, and
- 28 (D) sites used for the refueling of police, fire,  
29 or emergency medical services vehicles or other vehicles  
30 that are owned, leased, or operated by (or operated under  
31 contract with) the State, a unit of local government, or  
32 a school district, or any agency of the State and that  
33 are not normally accessible to the public.

34 (2) (a) The Office of the State Fire Marshal shall adopt

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

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

19 (3) (a) The Office of the State Fire Marshal shall have  
 20 authority over underground storage tanks which contain, have  
 21 contained, or are designed to contain petroleum, hazardous  
 22 substances and regulated substances as those terms are used  
 23 in Subtitle I of the Hazardous and Solid Waste Amendments of  
 24 1984 (P.L. 98-616), as amended by the Superfund Amendments  
 25 and Reauthorization Act of 1986 (P.L. 99-499). The Office  
 26 shall have the power with regard to underground storage tanks  
 27 to require any person who-tests,7-installs,7-repairs,7-replaces,7  
 28 relines,7-or--removes--any--underground--storage--tank--system  
 29 containing,7--formerly--containing,7--or--which--is--designed--to  
 30 contain--petroleum--or--other--regulated--substances--to--be  
 31 certified--to--perform--that--activity,7-to-obtain-a-permit-to  
 32 install,7-repair,7-replace,7-reline,7-or--remove--the--particular  
 33 tank--system,7--to-pay-an-annual-certification-fee-of-\$100-per  
 34 year,7-and to pay a fee set by the Office of-\$100-per-site for

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

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

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

34 (c) (Blank). ~~The-Office-of-the-State-Fire-Marshal-shall~~



1 require any person, corporation or other entity who tests an  
2 underground tank or its piping or cathodic protection for  
3 another, except a lesser for his or her lessee, to register  
4 with the Office, and pay an annual registration fee of \$100,  
5 to be deposited in the Fire Prevention Fund, and report the  
6 results of such test to the Office.

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

10 (i) Inspecting and investigating to ascertain  
11 possible violations of this Act, of regulations  
12 thereunder or of permits or terms or conditions thereof;  
13 or

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

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

1 Law.

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

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

33 (b) The Office of the State Fire Marshal shall enforce  
34 its rules and regulations concerning aboveground storage

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

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

19 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

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

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

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

27 (3) Section Sections 4 and 5 of this Act is a  
 28 business offense punishable by a fine of not more than  
 29 \$10,000 per day;

30 (3.5) Section 3.5 of this Act is a business offense  
 31 punishable by fine of not more than \$10,000 per offense;

32 (4) an administrative order as described in  
 33 paragraph (e) of subsection (3) of Section 2, paragraph

1 (b) of subsection (4) of Section 2 or subsection (c) of  
2 Section 6 after it has become final is a business offense  
3 punishable by a fine of not less than \$1,000 nor more  
4 than \$25,000 per day;

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

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

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

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

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