



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1913

Introduced 2/23/2007, by Rep. Jay C. Hoffman

#### SYNOPSIS AS INTRODUCED:

430 ILCS 15/2

from Ch. 127 1/2, par. 154

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

LRB095 10404 CMK 30619 b

1 AN ACT concerning public safety.

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

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

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

7 Sec. 2. Jurisdiction; regulation of tanks.

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

21 (b) The rulemaking power shall include the power to  
22 promulgate rules providing for the issuance and revocation of  
23 permits allowing the self service dispensing of motor fuels as

1 such term is defined in the Motor Fuel Tax Law in retail  
2 service stations or any other place of business where motor  
3 fuels are dispensed into the fuel tanks of motor vehicles,  
4 internal combustion engines or portable containers. Such rules  
5 shall specify the requirements that must be met both prior and  
6 subsequent to the issuance of such permits in order to insure  
7 the safety and welfare of the general public. The operation of  
8 such service stations without a permit shall be unlawful. The  
9 Office of the State Fire Marshal shall revoke such permit if  
10 the self service operation of such a service station is found  
11 to pose a significant risk to the safety and welfare of the  
12 general public.

13 (c) However, except in any county with a population of  
14 1,000,000 or more, the Office of the State Fire Marshal shall  
15 not have the authority to prohibit the operation of a service  
16 station solely on the basis that it is an unattended  
17 self-service station which utilizes key or card operated  
18 self-service motor fuel dispensing devices. Nothing in this  
19 paragraph shall prohibit the Office of the State Fire Marshal  
20 from adopting reasonable rules and regulations governing the  
21 safety of self-service motor fuel dispensing devices.

22 (d) The State Fire Marshal shall not prohibit the  
23 dispensing or delivery of flammable or combustible motor  
24 vehicle fuels directly into the fuel tanks of vehicles from  
25 tank trucks, tank wagons, or other portable tanks. The State  
26 Fire Marshal shall adopt rules (i) for the issuance of permits

1 for the dispensing of motor vehicle fuels in the manner  
2 described in this paragraph (d), (ii) that establish fees for  
3 permits and inspections, and provide for those fees to be  
4 deposited into the Fire Prevention Fund, (iii) that require the  
5 dispensing of motor fuel in the manner described in this  
6 paragraph (d) to meet conditions consistent with nationally  
7 recognized standards such as those of the National Fire  
8 Protection Association, and (iv) that restrict the dispensing  
9 of motor vehicle fuels in the manner described in this  
10 paragraph (d) to the following:

11 (A) agriculture sites for agricultural purposes,

12 (B) construction sites for refueling construction  
13 equipment used at the construction site,

14 (C) sites used for the parking, operation, or  
15 maintenance of a commercial vehicle fleet, ~~but only if the~~  
16 ~~site is located in a county with 3,000,000 or more~~  
17 ~~inhabitants or a county contiguous to a county with~~  
18 ~~3,000,000 or more inhabitants and the site is not normally~~  
19 ~~accessible to the public,~~ and

20 (D) sites used for the refueling of police, fire, or  
21 emergency medical services vehicles or other vehicles that  
22 are owned, leased, or operated by (or operated under  
23 contract with) the State, a unit of local government, or a  
24 school district, or any agency of the State and that are  
25 not normally accessible to the public.

26 (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 of  
6 the Office of the State Fire Marshal. It is declared to be the  
7 law of this State, pursuant to paragraphs (h) and (i) of  
8 Section 6 of Article VII of the Illinois Constitution, that the  
9 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 permitted  
14 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 in  
23 Subtitle I of the Hazardous and Solid Waste Amendments of 1984  
24 (P.L. 98-616), as amended by the Superfund Amendments and  
25 Reauthorization Act of 1986 (P.L. 99-499). The Office shall  
26 have the power with regard to underground storage tanks to

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

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

25 (ii) The Office of the State Fire Marshal may adopt  
26 additional regulations relating to an underground storage tank

1 program that are not inconsistent with and at least as  
2 stringent as Section 9003 of Subtitle I of the Hazardous and  
3 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource  
4 Conservation and Recovery Act of 1976 (P.L. 94-580), as  
5 amended, or regulations adopted thereunder. Except as provided  
6 otherwise in subparagraph (i) of this paragraph (b), the Office  
7 of the State Fire Marshal shall not adopt regulations relating  
8 to corrective action at underground storage tanks. Regulations  
9 adopted pursuant to this subsection shall be adopted in  
10 accordance with the procedures for rulemaking in Section 5-35  
11 of the Illinois Administrative Procedure Act.

12 (c) The Office of the State Fire Marshal shall require any  
13 person, corporation or other entity who tests an underground  
14 tank or its piping or cathodic protection for another to report  
15 the results of such test to the Office.

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

19 (i) Inspecting and investigating to ascertain possible  
20 violations of this Act, of regulations thereunder or of  
21 permits or terms or conditions thereof; or

22 (ii) In accordance with the provisions of this Act,  
23 taking whatever emergency action, that is necessary or  
24 appropriate, to assure that the public health or safety is  
25 not threatened whenever there is a release or a substantial  
26 threat of a release of petroleum or a regulated substance

1 from an underground storage tank.

2 (e) The Office of the State Fire Marshal may issue an  
3 Administrative Order to any person who it reasonably believes  
4 has violated the rules and regulations governing underground  
5 storage tanks, including the installation, repair, leak  
6 detection, cathodic protection tank testing, removal or  
7 release notification. Such an order shall be served by  
8 registered or certified mail or in person. Any person served  
9 with such an order may appeal such order by submitting in  
10 writing any such appeal to the Office within 10 days of the  
11 date of receipt of such order. The Office shall conduct an  
12 administrative hearing governed by the Illinois Administrative  
13 Procedure Act and enter an order to sustain, modify or revoke  
14 such order. Any appeal from such order shall be to the circuit  
15 court of the county in which the violation took place and shall  
16 be governed by the Administrative Review Law.

17 (f) The Office of the State Fire Marshal shall not require  
18 the removal of an underground tank system taken out of  
19 operation before January 2, 1974, except in the case in which  
20 the office of the State Fire Marshal has determined that a  
21 release from the underground tank system poses a current or  
22 potential threat to human health and the environment. In that  
23 case, and upon receipt of an Order from the Office of the State  
24 Fire Marshal, the owner or operator of the nonoperational  
25 underground tank system shall assess the excavation zone and  
26 close the system in accordance with regulations promulgated by



1 the Office of the State Fire Marshal.

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

19 (b) The Office of the State Fire Marshal shall enforce its  
20 rules and regulations concerning aboveground storage tanks and  
21 associated piping; however, municipalities may enforce any of  
22 their zoning ordinances or zoning regulations regarding  
23 aboveground tanks. The Office of the State Fire Marshal may  
24 issue an administrative order to any owner of an aboveground  
25 storage tank and associated piping it reasonably believes to be  
26 in violation of such rules and regulations to remedy or remove

1 any such violation. Such an order shall be served by registered  
2 or certified mail or in person. Any person served with such an  
3 order may appeal such order by submitting in writing any such  
4 appeal to the Office within 10 days of the date of receipt of  
5 such order. The Office shall conduct an administrative hearing  
6 governed by the Illinois Administrative Procedure Act and enter  
7 an order to sustain, modify or revoke such order. Any appeal  
8 from such order shall be to the circuit court of the county in  
9 which the violation took place and shall be governed by the  
10 Administrative Review Law.

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.