



Rep. Angelo Saviano

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LRB095 07566 LCT 33348 a

1 AMENDMENT TO HOUSE BILL 2995

2 AMENDMENT NO. _____. Amend House Bill 2995 by replacing
3 everything after the enacting clause with the following:

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

1 any zoning ordinance of a municipality or home rule unit
2 enacted pursuant to Section 11-13-1 of the Illinois Municipal
3 Code or any ordinance enacted pursuant to Section 11-8-4 of the
4 Illinois Municipal Code.

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

20 (c) However, except in any county with a population of
21 1,000,000 or more, the Office of the State Fire Marshal shall
22 not have the authority to prohibit the operation of a service
23 station solely on the basis that it is an unattended
24 self-service station which utilizes key or card operated
25 self-service motor fuel dispensing devices. Nothing in this
26 paragraph shall prohibit the Office of the State Fire Marshal

1 from adopting reasonable rules and regulations governing the
2 safety of self-service motor fuel dispensing devices.

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

18 (A) agriculture sites for agricultural purposes,

19 (B) construction sites for refueling construction
20 equipment used at the construction site,

21 (C) sites used for the parking, operation, or
22 maintenance of a commercial vehicle fleet, but only if the
23 site is located in Cook, Lake, McHenry, Kane, DuPage, Will,
24 Kankakee, Grundy, Kendall, Dekalb, Boone, Ogle, or
25 Winnebago county ~~a county with 3,000,000 or more~~
26 ~~inhabitants or a county contiguous to a county with~~

1 ~~3,000,000 or more inhabitants~~ and the site is not normally
2 accessible to the public, and

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

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

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

1 this subsection.

2 (3) (a) The Office of the State Fire Marshal shall have
3 authority over underground storage tanks which contain, have
4 contained, or are designed to contain petroleum, hazardous
5 substances and regulated substances as those terms are used in
6 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
7 (P.L. 98-616), as amended by the Superfund Amendments and
8 Reauthorization Act of 1986 (P.L. 99-499). The Office shall
9 have the power with regard to underground storage tanks to
10 require any person who tests, installs, repairs, replaces,
11 relines, or removes any underground storage tank system
12 containing, formerly containing, or which is designed to
13 contain petroleum or other regulated substances, to obtain a
14 permit to install, repair, replace, reline, or remove the
15 particular tank system, and to pay a fee set by the Office for
16 a permit to install, repair, replace, reline, upgrade, test, or
17 remove any portion of an underground storage tank system. All
18 persons who do repairs above grade level for themselves need
19 not pay a fee or be certified. All fees received by the Office
20 from certification and permits shall be deposited in the Fire
21 Prevention Fund for the exclusive use of the Office in
22 administering the Underground Storage Tank program.

23 (b) (i) Within 120 days after the promulgation of
24 regulations or amendments thereto by the Administrator of the
25 United States Environmental Protection Agency to implement
26 Section 9003 of Subtitle I of the Hazardous and Solid Waste

1 Amendments of 1984 (P.L. 98-616) of the Resource Conservation
2 and Recovery Act of 1976 (P.L. 94-580 ~~95-580~~), as amended, the
3 Office of the State Fire Marshal shall adopt regulations or
4 amendments thereto which are identical in substance. The
5 rulemaking provisions of Section 5-35 of the Illinois
6 Administrative Procedure Act shall not apply to regulations or
7 amendments thereto adopted pursuant to this subparagraph (i).

8 (ii) The Office of the State Fire Marshal may adopt
9 additional regulations relating to an underground storage tank
10 program that are not inconsistent with and at least as
11 stringent as Section 9003 of Subtitle I of the Hazardous and
12 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource
13 Conservation and Recovery Act of 1976 (P.L. 94-580), as
14 amended, or regulations adopted thereunder. Except as provided
15 otherwise in subparagraph (i) of this paragraph (b), the Office
16 of the State Fire Marshal shall not adopt regulations relating
17 to corrective action at underground storage tanks. Regulations
18 adopted pursuant to this subsection shall be adopted in
19 accordance with the procedures for rulemaking in Section 5-35
20 of the Illinois Administrative Procedure Act.

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

25 (d) In accordance with constitutional limitations, the
26 Office shall have authority to enter at all reasonable times

1 upon any private or public property for the purpose of:

2 (i) Inspecting and investigating to ascertain possible
3 violations of this Act, of regulations thereunder or of
4 permits or terms or conditions thereof; or

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

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

26 (f) The Office of the State Fire Marshal shall not require

1 the removal of an underground tank system taken out of
2 operation before January 2, 1974, except in the case in which
3 the office of the State Fire Marshal has determined that a
4 release from the underground tank system poses a current or
5 potential threat to human health and the environment. In that
6 case, and upon receipt of an Order from the Office of the State
7 Fire Marshal, the owner or operator of the nonoperational
8 underground tank system shall assess the excavation zone and
9 close the system in accordance with regulations promulgated by
10 the Office of the State Fire Marshal.

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

1 permitted in this Act.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."