

1 AN ACT concerning 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 Cook, Lake, McHenry, Kane, DuPage, Will,
17 Kankakee, Grundy, Kendall, Dekalb, Boone, Ogle, or
18 Winnebago county ~~a county with 3,000,000 or more~~
19 ~~inhabitants or a county contiguous to a county with~~
20 ~~3,000,000 or more inhabitants~~ and the site is not normally
21 accessible to the public, and

22 (D) sites used for the refueling of police, fire, or
23 emergency medical services vehicles or other vehicles that
24 are owned, leased, or operated by (or operated under
25 contract with) the State, a unit of local government, or a
26 school district, or any agency of the State and that are

1 not normally accessible to the public.

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

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

21 (3) (a) The Office of the State Fire Marshal shall have
22 authority over underground storage tanks which contain, have
23 contained, or are designed to contain petroleum, hazardous
24 substances and regulated substances as those terms are used in
25 Subtitle I of the Hazardous and Solid Waste Amendments of 1984
26 (P.L. 98-616), as amended by the Superfund Amendments and

1 Reauthorization Act of 1986 (P.L. 99-499). The Office shall
2 have the power with regard to underground storage tanks to
3 require any person who tests, installs, repairs, replaces,
4 relines, or removes any underground storage tank system
5 containing, formerly containing, or which is designed to
6 contain petroleum or other regulated substances, to obtain a
7 permit to install, repair, replace, reline, or remove the
8 particular tank system, and to pay a fee set by the Office for
9 a permit to install, repair, replace, reline, upgrade, test, or
10 remove any portion of an underground storage tank system. All
11 persons who do repairs above grade level for themselves need
12 not pay a fee or be certified. All fees received by the Office
13 from certification and permits shall be deposited in the Fire
14 Prevention Fund for the exclusive use of the Office in
15 administering the Underground Storage Tank program.

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

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

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

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

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

24 (ii) In accordance with the provisions of this Act,
25 taking whatever emergency action, that is necessary or
26 appropriate, to assure that the public health or safety is

1 not threatened whenever there is a release or a substantial
2 threat of a release of petroleum or a regulated substance
3 from an underground storage tank.

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

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

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

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

21 (b) The Office of the State Fire Marshal shall enforce its
22 rules and regulations concerning aboveground storage tanks and
23 associated piping; however, municipalities may enforce any of
24 their zoning ordinances or zoning regulations regarding
25 aboveground tanks. The Office of the State Fire Marshal may
26 issue an administrative order to any owner of an aboveground

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

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.