

1 AN ACT concerning the regulation of professions.

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

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

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

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

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

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

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

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

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

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

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

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

1 experience out of the preceding 5 years.

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

9 Section 35. Licensure qualifications and fees.

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

12 (1) fees as established by the Office;

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

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

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

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

25 (1) installation of underground storage tanks;

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

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

31 (4) relining of USTs;

32 (5) tank and piping tightness testing;

33 (6) testing of cathodic protection systems; and

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

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

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

11 Section 45. Issuance of license; renewal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Section 75. Formal charges; hearings.

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

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

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

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

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

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

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

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

1 of public record and shall be preserved.

2 Section 80. Sanctions.

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

7 (1) revocation;

8 (2) suspension for any period of time;

9 (3) reprimand or censure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 Section 85. Depositions; witnesses; judicial review.

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

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

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

1 transmitting the record.

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

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

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

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

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

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

33 Such proof may be rebutted.

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

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

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

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

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

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

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

1 Sec. 2. Jurisdiction; regulation of tanks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 rule unit except as expressly permitted in this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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