



General Assembly

February Session, 2000

***Raised Bill No. 5763***

LCO No. 2110

Referred to Committee on Environment

Introduced by:  
(ENV)

***An Act Concerning The Underground Storage Tank Amnesty Program.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-449a of the general statutes is repealed and  
2 the following is substituted in lieu thereof:

3 As used in this section and sections 22a-449c to [22a-449g] 22a-449i,  
4 inclusive, and sections 4 to 6, inclusive, of this act:

5 (1) "Petroleum" means crude oil, crude oil fractions and refined  
6 petroleum fractions, including gasoline, kerosene, heating oils and  
7 diesel fuels;

8 (2) "Release" means any spilling, leaking, pumping, pouring,  
9 emitting, emptying, discharging, injecting, escaping, leaching,  
10 dumping or disposing of petroleum from any underground storage  
11 tank or underground storage tank system;

12 (3) "Responsible party" means any person or entity, including the  
13 state and any political subdivision of the state, which owns or operates  
14 an underground storage tank or underground storage tank system

15 from which a release emanates;

16 (4) "Underground storage tank" means a tank or combination of  
17 tanks, including underground pipes connected thereto, used to contain  
18 an accumulation of petroleum, whose volume is ten per cent or more  
19 beneath the surface of the ground, including the volume of  
20 underground pipes connected thereto; [and]

21 (5) "Underground storage tank system" means an underground  
22 storage tank and any associated ancillary equipment and containment  
23 system; and

24 (6) "Residential underground heating oil storage tank system"  
25 means an underground storage tank system used in connection with  
26 residential real property comprised of four residential units or fewer.

27 Sec. 2. Section 22a-449c of the general statutes is repealed and the  
28 following is substituted in lieu thereof:

29 (a) (1) There is established an account to be known as the  
30 "underground storage tank petroleum clean-up account". The  
31 underground storage tank petroleum clean-up account shall be an  
32 account of the Environmental Quality Fund. Notwithstanding any  
33 provision of the general statutes to the contrary, any moneys collected  
34 shall be deposited in the Environmental Quality Fund and credited to  
35 the underground storage tank petroleum clean-up account. Any  
36 balance remaining in said account at the end of any fiscal year shall be  
37 carried forward in said account for the fiscal year next succeeding.

38 [(b)] (2) The account shall be used by the Commissioner of  
39 Environmental Protection to provide money for reimbursement or  
40 payment to responsible parties or parties supplying goods or services,  
41 or both, to responsible parties for costs, expenses and other obligations  
42 paid or incurred, as the case may be, as a result of releases, and  
43 suspected releases, costs of investigation of releases and suspected  
44 releases, and third party claims for bodily injury, property damage and

45 damage to natural resources. Notwithstanding the provisions of this  
46 section, the responsible party for a release shall bear all costs of the  
47 release that are less than ten thousand dollars or more than one million  
48 dollars, except that for any such release which was reported to the  
49 department prior to December 31, 1987, and for which more than five  
50 hundred thousand dollars has been expended by the responsible party  
51 to remediate such release prior to June 19, 1991, the responsible party  
52 for the release shall bear all costs of such release which are less than  
53 ten thousand dollars or more than three million dollars. There shall be  
54 allocated to the department annually, for administrative costs, one  
55 million one hundred fifty thousand dollars.

56 (3) The purpose of said account is to protect public health and the  
57 environment by providing for remediation of soil or groundwater that  
58 has been polluted by the release of petroleum from underground  
59 storage tanks.

60 (b) There is established a subaccount within the underground  
61 storage tank petroleum clean-up account to be known as the  
62 "residential underground heating oil storage tank system clean-up  
63 subaccount" to be used solely for the provision of reimbursements  
64 under section 3 of public act 99-269, as amended by this act, for the  
65 remediation of contamination attributed to residential underground  
66 heating oil storage tank systems.

67 Sec. 3. Section 22a-449d of the general statutes, as amended by  
68 section 4 of public act 99-269, is repealed and the following is  
69 substituted in lieu thereof:

70 (a) There is established an Underground Storage Tank Petroleum  
71 Clean-Up Account Review Board to review applications for  
72 reimbursements and payments from the account established under  
73 section 22a-449c, as amended by this act. Upon application for  
74 reimbursement or payment pursuant to section 22a-449f the board  
75 shall determine if a release occurred and damage resulted from such  
76 release and the amount of any such damage. The board shall have the

77 authority to hold hearings, administer oaths, subpoena witnesses and  
78 documents through its chairperson when authorized by the board;  
79 designate an agent to perform such duties of the board as it deems  
80 necessary except the duty to render a final decision to order  
81 reimbursement or payment from the account; and provide by notice,  
82 printed on any form, that any false statement made thereof or  
83 pursuant thereto is punishable pursuant to section 53a-157b.

84 (b) The board shall consist of the Commissioners of Environmental  
85 Protection and Revenue Services, the Secretary of the Office of Policy  
86 and Management and the State Fire Marshal, or their designees; one  
87 member representing the Connecticut Petroleum Council, appointed  
88 by the speaker of the House of Representatives; one member  
89 representing the Service Station Dealers Association, appointed by the  
90 majority leader of the Senate; one member of the public, appointed by  
91 the majority leader of the House of Representatives; one member  
92 representing the Independent Connecticut Petroleum Association,  
93 appointed by the president pro tempore of the Senate; one member  
94 representing the Connecticut Gasoline Retailers Association, appointed  
95 by the minority leader of the House of Representatives; one member  
96 representing a municipality with a population greater than one  
97 hundred thousand, appointed by the Governor; one member  
98 representing a municipality with a population of less than one  
99 hundred thousand, appointed by the minority leader of the Senate; one  
100 member representing a small manufacturing company which employs  
101 fewer than seventy-five persons, appointed by the speaker of the  
102 House of Representatives; [and] one member experienced in the  
103 delivery, installation, and removal of residential underground  
104 petroleum storage tanks and remediation of contamination from such  
105 tanks, appointed by the president pro tempore of the Senate; and one  
106 member who is an environmental professional licensed under section  
107 22a-133v and is experienced in investigating and remediating  
108 contamination attributable to underground petroleum storage tanks,  
109 appointed by the Governor. The board shall annually elect one of its  
110 members to serve as chairperson.

111 Sec. 4. Section 1 of public act 99-269 is repealed and the following is  
112 substituted in lieu thereof:

113 (a) No person shall be liable to the state in any civil action for any  
114 cost relating to any spill, as defined in section 22a-452c, of the general  
115 statutes, attributable to [an underground storage tank system, as  
116 defined in section 22a-449a, of the general statutes, used in connection  
117 with residential real property comprised of four residential units or  
118 fewer] a residential underground heating oil storage tank system if (1)  
119 such person has provided for the removal or replacement of [an  
120 underground petroleum storage tank associated with] such system  
121 after July 1, 1999, and before January 1, 2002, and (2) such person has  
122 provided notice and documentation of such removal or replacement to  
123 the Commissioner of Environmental Protection in such form and  
124 containing such information as the commissioner may require. The  
125 provisions of this subsection shall not apply to any person who fails to  
126 discontinue the use of or to remove a residential underground heating  
127 oil storage tank system within the period specified by an order of the  
128 Commissioner of Environmental Protection. Removals and  
129 replacements shall be conducted in accordance with subsection (a) of  
130 section 7 of this act.

131 (b) On or before January 1, 2000, and annually thereafter until  
132 January 1, 2003, the commissioner shall report to the joint standing  
133 committee of the General Assembly having cognizance of matters  
134 relating to the environment regarding the program established under  
135 this section, the extent to which it is used and the extent of the state's  
136 liability for environmental remediation as a result of the program.

137 Sec. 5. Section 2 of public act 99-269 is repealed and the following is  
138 substituted in lieu thereof:

139 [Any person in the business of removing or replacing underground  
140 storage tanks pursuant to section 22a-449l shall register with the  
141 Commissioner of Environmental Protection and shall provide to said  
142 commissioner] No person shall remove or replace or subcontract for

143 the removal or replacement of a residential underground heating oil  
144 storage tank system if such removal or replacement will involve  
145 remediation of contaminated soil or groundwater, the costs of which  
146 are to be paid out of the residential underground heating oil storage  
147 tank system clean-up subaccount established pursuant to subsection  
148 (b) of section 22a-449c, as amended by this act, unless the person is a  
149 registered contractor. To become a registered contractor, a person shall  
150 provide to the Commissioner of Environmental Protection, on forms  
151 prescribed by said commissioner, (1) evidence of financial assurance in  
152 the form of insurance, a surety bond or liquid company assets in an  
153 amount not less than two hundred fifty thousand dollars, and (2) a  
154 written statement certifying that such person has had any training  
155 required by law for such business and that such person has (A)  
156 performed no fewer than three residential underground petroleum  
157 storage tank system removals, or (B) has contracted for at least three  
158 removals of residential underground petroleum storage tank systems.  
159 Such person shall pay a registration fee of five hundred dollars to the  
160 commissioner. Each contractor holding a valid registration on July first  
161 shall, not later than August first of that year, pay a renewal fee to the  
162 commissioner of two hundred fifty dollars in order to maintain such  
163 registration. Any money collected for registration pursuant to this  
164 section shall be deposited in the Environmental Quality Fund. Not  
165 later than July 1, 2000, the commissioner shall adopt regulations in  
166 accordance with chapter 54 of the general statutes, establishing  
167 requirements for financial assurance, training and performance  
168 standards of registered contractors. The commissioner may revoke a  
169 registration for cause and on and after the date the department adopts  
170 such regulations, may reject any application for registration that does  
171 not meet such requirements.

172       Sec. 6. Section 3 of public act 99-269 is repealed and the following is  
173 substituted in lieu thereof:

174       (a) As used in this section, "registered contractor" means a person  
175 registered with the Commissioner of Environmental Protection

176 pursuant to section 2 of [this act] public act 99-269, as amended by this  
177 act. [No person who is not a contractor may remove or replace any  
178 underground petroleum storage tank used in connection with  
179 residential real property comprised of four residential units or fewer if  
180 such removal or replacement will involve remediation of contaminated  
181 soil or groundwater the costs of which are to be paid out of the not less  
182 than two million dollars set aside from the proceeds of bonds  
183 authorized under subdivision (1) of subsection (b) of sections 13 and 32  
184 of public act 99-242\* for the purpose of providing funding for  
185 remediation of soil contaminated by a release from a home heating oil  
186 tank. If any such replacement involves installation of an underground  
187 petroleum storage tank, such tank shall conform to any standards  
188 which apply to new underground petroleum storage tanks.]

189 (b) If, in the course of removing or replacing [an underground  
190 petroleum storage tank associated with an underground storage tank  
191 system, as defined in section 22a-449a, of the general statutes, used in  
192 connection with residential real property comprised of four residential  
193 units or fewer,] a residential underground heating oil storage tank  
194 system, a registered contractor finds that there has been a spill, as  
195 defined in section 22a-452c, of the general statutes, attributable to such  
196 system and such contractor estimates that the remediation of such spill  
197 is likely to cost more than five thousand dollars, such contractor shall  
198 immediately notify the [spill response unit of the] Department of  
199 Environmental Protection regarding such spill. If, after the contractor's  
200 initial estimate, the contractor subsequently determines that such cost  
201 will exceed five thousand dollars, the contractor shall upon that  
202 determination notify the Department of Environmental Protection. The  
203 department may assess the spill and confirm that the remediation  
204 proposed by the contractor is appropriate and necessary, or may  
205 authorize an environmental professional licensed under section 22a-  
206 133v of the general statutes, to assess the spill and make such  
207 confirmation. Any such remediation shall be subject to approval by the  
208 department, except that the department may authorize an  
209 environmental professional licensed under section 22a-133v of the

210 general statutes, to make a recommendation regarding such approval.  
211 If a registered contractor estimates that the remediation of such spill is  
212 likely to cost more than ten thousand dollars, the commissioner or any  
213 agent of the commissioner or an environmental professional licensed  
214 under said section 22a-133v contracted by the department shall inspect  
215 the site and confirm that such remediation is reasonable.

216 (c) (1) A registered contractor [, or a person licensed under section  
217 22a-454 of the general statutes, who is engaged to perform remediation  
218 of a spill associated with an underground storage tank system, as  
219 defined in section 22a-449a, of the general statutes, used in connection  
220 with residential real property comprised of four residential units or  
221 fewer may apply] shall submit to the Underground Storage Tank  
222 Petroleum Clean-up Account Review Board established under section  
223 22a-449d, as amended by this act, for a disbursement from the [not less  
224 than two million dollars set aside from the proceeds of bonds  
225 authorized under subdivision (1) of subsection (b) of sections 13 and 32  
226 of public act 99-242\* for the costs of such remediation provided the  
227 owner of such tank system shall pay the first five hundred dollars of  
228 such costs and the board may approve payment of the balance of such  
229 costs up to fifty thousand dollars] residential underground heating oil  
230 storage tank system clean-up subaccount established under subsection  
231 (b) of section 22a-449c of the general statutes, as amended by this act,  
232 all costs for work performed pursuant to a contract with the owner for  
233 the remediation of a residential underground heating oil storage tank  
234 system for the purpose of providing funding for the costs of such  
235 remediation. An owner of a residential underground heating oil  
236 storage tank system shall not be responsible to the registered  
237 contractor or any subcontractor of the registered contractor for any  
238 costs that are eligible for funding from the residential underground  
239 heating oil storage tank system clean-up subaccount over five hundred  
240 dollars. The registered contractor or any subcontractor shall not bill the  
241 owner for any costs eligible for funding from said subaccount over five  
242 hundred dollars. Such owner shall provide to the review board a  
243 statement confirming [whether the applicant] the registered contractor

244 has been engaged by such owner to remove or to replace such  
245 residential underground heating oil storage tank system and perform  
246 the remediation and shall execute an instrument which provides for  
247 payment to said account of any amounts realized by the owner, after  
248 any costs of litigation or attorney's fees have been paid, from a  
249 judgment or settlement regarding any claim for the costs of such  
250 remediation made against an insurance policy or any party. [The  
251 contractor shall submit documentation, satisfactory to the board, of  
252 any costs associated with such remediation.] In any service contract  
253 entered into between a registered contractor and an owner for the  
254 remediation of a residential underground heating oil storage tank  
255 system, the registered contractor shall clearly identify all costs,  
256 including markup costs, that are not or may not be eligible for funding  
257 from said subaccount.

258 (2) The registered contractor shall submit documentation,  
259 satisfactory to the review board, of any costs associated with such  
260 remediation. The review board may deny remediation costs of the  
261 registered contractor (A) in excess of five thousand dollars if the  
262 Department of Environmental Protection was not notified in  
263 accordance with the provisions of subsection (b) of this section, and (B)  
264 in excess of ten thousand dollars if the site was not inspected in  
265 accordance with the provisions of subsection (b) of this section. If a  
266 registered contractor fails to submit to the review board  
267 documentation of costs associated with such remediation that may be  
268 eligible for payment from the residential underground heating oil  
269 storage tank system clean-up subaccount or if the registered contractor  
270 submits documentation of such costs but the board denies payment of  
271 such costs, the registered contractor shall be liable for such costs and  
272 shall have no cause of action against the owner of the underground  
273 petroleum storage tank.

274 (3) A copy of the review board's decision shall be sent to the  
275 Commissioner of Environmental Protection and to the registered  
276 contractor by certified mail, return receipt requested. The

277 commissioner or any contractor aggrieved by a decision of the review  
278 board may, not more than twenty days after the date the decision was  
279 issued, request a hearing before the review board in accordance with  
280 chapter 54. After such hearing, the board shall consider the  
281 information submitted to it and affirm or modify its decision on the  
282 reimbursement. A copy of the affirmed or modified decision shall be  
283 sent to the commissioner and any contractor by certified mail, return  
284 receipt requested.

285       Sec. 7. (NEW) (a) Any remediation performed pursuant to sections 4  
286 to 6, inclusive, of this act shall be performed by or under the direct  
287 onsite supervision of a registered contractor, as defined in section 6 of  
288 this act and shall be performed in accordance with soil and water  
289 standards established by regulations adopted pursuant to section 22a-  
290 33k of the general statutes. If the replacement of any residential  
291 underground heating oil storage tank system performed pursuant to  
292 the provisions of this section involves installation of an underground  
293 petroleum storage tank, such tank shall conform to any standards  
294 which apply to new underground petroleum storage tanks.

295       (b) The commissioner shall adopt regulations in accordance with the  
296 provisions of chapter 54 of the general statutes setting forth the  
297 standards and criteria for residential underground heating oil storage  
298 tank systems which may include, but not be limited to, (1) standards  
299 for criteria for the design, installation, operation, maintenance and  
300 monitoring of such facilities, (2) the life expectancy after which such  
301 systems must be removed and replaced, and (3) standards and  
302 procedures for the granting of a waiver for the installation of a new  
303 residential underground heating oil storage tank system or the  
304 replacement of an existing system.

305       (c) After July 1, 2000, the installation of a new residential  
306 underground heating oil storage tank system or the replacement of an  
307 existing system is prohibited without the owner first obtaining a  
308 waiver from the commissioner to allow such a system to be installed

309 and operated.

310 Sec. 8. The sum of twelve million dollars is appropriated to the  
311 Department of Environmental Protection, from the General Fund, for  
312 the fiscal year ending June 30, 2001, for the residential underground  
313 heating oil storage tank system clean-up subaccount established  
314 pursuant to subsection (b) of section 22a-449c of the general statutes, as  
315 amended by this act, for the remediation of contamination attributable  
316 to residential underground heating oil storage tank systems.

317 Sec. 9. This act shall take effect from its passage.

***Statement of Purpose:***

To make revisions to the Underground Storage Tank Amnesty Program.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*