



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 Section 22a-449a of the general statutes is repealed and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 Section 22a-449c of the general statutes is repealed and the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 water that has
58 been polluted by the release of petroleum from underground storage
59 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 order payment from the residential underground heating
78 oil storage tank system clean-up subaccount to registered contractors
79 for reasonable costs associated with the remediation of a residential
80 underground heating oil storage tank system; hold hearings,
81 administer oaths, subpoena witnesses and documents through its

82 chairperson when authorized by the board; designate an agent to
83 perform such duties of the board as it deems necessary except the duty
84 to render a final decision to order reimbursement or payment from the
85 account; and provide by notice, printed on any form, that any false
86 statement made thereof or pursuant thereto is punishable pursuant to
87 section 53a-157b.

88 (b) The board shall consist of the Commissioners of Environmental
89 Protection and Revenue Services, the Secretary of the Office of Policy
90 and Management and the State Fire Marshal, or their designees; one
91 member representing the Connecticut Petroleum Council, appointed
92 by the speaker of the House of Representatives; one member
93 representing the Service Station Dealers Association, appointed by the
94 majority leader of the Senate; one member of the public, appointed by
95 the majority leader of the House of Representatives; one member
96 representing the Independent Connecticut Petroleum Association,
97 appointed by the president pro tempore of the Senate; one member
98 representing the Connecticut Gasoline Retailers Association, appointed
99 by the minority leader of the House of Representatives; one member
100 representing a municipality with a population greater than one
101 hundred thousand, appointed by the Governor; one member
102 representing a municipality with a population of less than one
103 hundred thousand, appointed by the minority leader of the Senate; one
104 member representing a small manufacturing company which employs
105 fewer than seventy-five persons, appointed by the speaker of the
106 House of Representatives; [and] one member experienced in the
107 delivery, installation, and removal of residential underground
108 petroleum storage tanks and remediation of contamination from such
109 tanks, appointed by the president pro tempore of the Senate; and one
110 member who is an environmental professional licensed under section
111 22a-133v and is experienced in investigating and remediating
112 contamination attributable to underground petroleum storage tanks,
113 appointed by the Governor. The board shall annually elect one of its
114 members to serve as chairperson.

115 (c) Not later than July 1, 2000, the board shall establish guidelines

116 for determining what costs are reasonable for payment under section 3
117 of public act 99-269, as amended by this act, and shall establish
118 requirements for financial assurance, training and performance
119 standards for registered contractors, as defined in said section 3 of
120 public act 99-269.

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

123 (a) No person shall be liable to the state in any civil action for any
124 cost relating to any spill, as defined in section 22a-452c of the general
125 statutes, attributable to [an underground storage tank system, as
126 defined in section 22a-449a of the general statutes, used in connection
127 with residential real property comprised of four residential units or
128 fewer] a residential underground heating oil storage tank system if (1)
129 such person has provided for the removal or replacement of [an
130 underground petroleum storage tank associated with] such system
131 after July 1, 1999, and before January 1, 2002, and (2) such person has
132 provided notice and documentation of such removal or replacement to
133 the Commissioner of Environmental Protection in such form and
134 containing such information as the commissioner may require. After a
135 person has been released from potential liability pursuant to this
136 subsection, such release as it applies to such removal or replacement
137 shall carry forward to future owners of property where such removal
138 or replacement occurred. The provisions of this subsection shall not
139 apply to any person who fails to discontinue the use of or to remove a
140 residential underground heating oil storage tank system within the
141 period specified by an order of the Commissioner of Environmental
142 Protection. Removals and replacements shall be conducted in
143 accordance with subsection (a) of section 7 of this act.

144 (b) On or before January 1, 2000, and annually thereafter until
145 January 1, 2003, the commissioner shall report to the joint standing
146 committee of the General Assembly having cognizance of matters
147 relating to the environment regarding the program established under
148 this section, the extent to which it is used and the extent of the state's

149 liability for environmental remediation as a result of the program.

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

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

181 Sec. 6. Section 3 of public act 99-269 is repealed and the following is

182 substituted in lieu thereof:

183 (a) As used in this section, ["contractor"] "registered contractor"
184 means a person registered with the Commissioner of Environmental
185 Protection pursuant to section 2 of [this act] public act 99-269, as
186 amended by this act. [No person who is not a contractor may remove
187 or replace any underground petroleum storage tank used in
188 connection with residential real property comprised of four residential
189 units or fewer if such removal or replacement will involve remediation
190 of contaminated soil or groundwater the costs of which are to be paid
191 out of the not less than two million dollars set aside from the proceeds
192 of bonds authorized under subdivision (1) of subsection (b) of sections
193 13 and 32 of public act 99-242* for the purpose of providing funding
194 for remediation of soil contaminated by a release from a home heating
195 oil tank. If any such replacement involves installation of an
196 underground petroleum storage tank, such tank shall conform to any
197 standards which apply to new underground petroleum storage tanks.]

198 (b) If, in the course of removing or replacing [an underground
199 petroleum storage tank associated with an underground storage tank
200 system, as defined in section 22a-449a of the general statutes, used in
201 connection with residential real property comprised of four residential
202 units or fewer,] a residential underground heating oil storage tank
203 system, a registered contractor finds that there has been a spill, as
204 defined in section 22a-452c of the general statutes, attributable to such
205 system and such contractor estimates that the remediation of such spill
206 is likely to cost more than five thousand dollars, such contractor shall
207 immediately notify the [spill response unit of the] Department of
208 Environmental Protection regarding such spill. If, after the contractor's
209 initial estimate, the contractor subsequently determines that such cost
210 will exceed five thousand dollars, the contractor shall upon that
211 determination notify the Department of Environmental Protection. The
212 department may assess the spill and confirm that the remediation
213 proposed by the contractor is appropriate and necessary, or may
214 authorize an environmental professional licensed under section 22a-
215 133v of the general statutes, to assess the spill and make such

216 confirmation. Any such remediation shall be subject to approval by the
217 department, except that the department may authorize an
218 environmental professional licensed under section 22a-133v of the
219 general statutes to make a recommendation regarding such approval.
220 If a registered contractor estimates that the remediation of such spill is
221 likely to cost more than ten thousand dollars, the commissioner or any
222 agent of the commissioner or an environmental professional licensed
223 under said section 22a-133v contracted by the department shall inspect
224 the site and confirm that such remediation is reasonable.

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

250 owner for any costs eligible for payment from said subaccount over
251 five hundred dollars unless the contractor or subcontractor enters into
252 a separate written contract with the owner authorizing the contractor
253 or subcontractor to bill the owner more than five hundred dollars and
254 such separate contract gives the owner the right to cancel such contract
255 up to three days after entering into it. Such owner shall provide to the
256 review board a statement confirming [whether the applicant] the
257 registered contractor has been engaged by such owner to remove or to
258 replace such residential underground heating oil storage tank system
259 and perform the remediation and shall execute an instrument which
260 provides for payment to said account of any amounts realized by the
261 owner, after any costs of litigation or attorney's fees have been paid,
262 from a judgment or settlement regarding any claim for the costs of
263 such remediation made against an insurance policy or any party. [The
264 contractor shall submit documentation, satisfactory to the board, of
265 any costs associated with such remediation.] In any service contract
266 entered into between a registered contractor and an owner for the
267 remediation of a residential underground heating oil storage tank
268 system, the registered contractor shall clearly identify all costs,
269 including markup costs, that are not or may not be eligible for
270 payment from said subaccount.

271 (2) The registered contractor shall submit documentation,
272 satisfactory to the review board, of any costs associated with such
273 remediation. The review board may deny remediation costs of the
274 registered contractor that the review board determines are
275 unreasonable based on the guidelines established pursuant to
276 subsection (c) of section 22a-449d, as amended by this act, and may
277 deny remediation costs (A) in excess of five thousand dollars if the
278 Department of Environmental Protection was not notified in
279 accordance with the provisions of subsection (b) of this section, and (B)
280 in excess of ten thousand dollars if the site was not inspected in
281 accordance with the provisions of subsection (b) of this section. If a
282 registered contractor fails to submit to the review board
283 documentation of costs associated with such remediation that may be

284 eligible for payment from the residential underground heating oil
285 storage tank system clean-up subaccount or if the registered contractor
286 submits documentation of such costs but the board denies payment of
287 such costs, the registered contractor shall be liable for such costs and
288 shall have no cause of action against the owner of the underground
289 petroleum storage tank.

290 (3) A copy of the review board's decision shall be sent to the
291 Commissioner of Environmental Protection and to the registered
292 contractor by certified mail, return receipt requested. The
293 commissioner or any contractor aggrieved by a decision of the review
294 board may, not more than twenty days after the date the decision was
295 issued, request a hearing before the review board in accordance with
296 chapter 54. After such hearing, the board shall consider the
297 information submitted to it and affirm or modify its decision on the
298 reimbursement. A copy of the affirmed or modified decision shall be
299 sent to the commissioner and any contractor by certified mail, return
300 receipt requested.

301 Sec. 7. (NEW) (a) Any remediation performed pursuant to sections 4
302 to 6, inclusive, of this act shall be performed by or under the direct
303 onsite supervision of a registered contractor, as defined in section 6 of
304 this act and shall be performed in accordance with regulations adopted
305 by the commissioner pursuant to section 22a-133k of the general
306 statutes that establish direct exposure criteria for soil, pollutant
307 mobility criteria for soil and groundwater protection criteria for GA
308 and GAA areas. If the replacement of any residential underground
309 heating oil storage tank system performed pursuant to the provisions
310 of this section involves installation of an underground petroleum
311 storage tank, such tank shall conform to any standards which apply to
312 new underground petroleum storage tanks.

313 (b) The commissioner shall adopt regulations in accordance with the
314 provisions of chapter 54 of the general statutes setting forth the
315 standards and criteria for residential underground heating oil storage
316 tank systems which may include, but not be limited to, (1) standards

317 for criteria for the design, installation, operation, maintenance and
318 monitoring of such facilities, (2) the life expectancy after which such
319 systems must be removed and replaced, and (3) standards and
320 procedures for the granting of a waiver for the installation of a new
321 residential underground heating oil storage tank system or the
322 replacement of an existing system.

323 Sec. 8. This act shall take effect from its passage.

ENV Committee Vote: Yea 23 Nay 0 JFS C/R APP

APP Committee Vote: Yea 50 Nay 0 JFS