



**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – January 30, 2013
Environment Committee

Testimony Submitted by Commissioner Dan Esty

H.B. No. 5308 AN ACT CONCERNING CERTAIN APPLICATIONS FOR REIMBURSEMENT FROM THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM.

Thank you for the opportunity to present testimony regarding HB No. 5308 An Act Concerning Certain Applications for Reimbursement from the Underground Storage Tank Petroleum Clean-up Program. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP opposes this bill because it appears to be intended to address the claim of one applicant and would set a very bad precedent. Based on an analysis of known cases, this bill appears to address one applicant who had a gasoline release and refused to initiate appropriate clean up response forcing the state to take remedial action. The applicant to whom this bill is directed has received to date \$483,000 of reimbursement from the Underground Storage Tank Clean-Up Program (“Program”) to clean-up its own site following a gasoline release to the environment prior to 2002. However, despite repeated notice and time from the DEEP, the applicant declined to respond adequately and left significant gasoline contamination unabated on its neighbor property. In order to insure public safety, DEEP took action to remediate the adjacent residential property. As required by law, the DEEP subsequently pursued recovery of those costs from the party responsible for the pollution.

Had the applicant chosen to act at an appropriate time, the applicant would have been eligible for reimbursement. According to Conn. Gen Stat. § 22a-449f(g), the clean-up costs that DEEP incurred (\$343,962 debt to the state) cannot be paid by the Program. The purpose of this statutory prohibition is to ensure a responsible party is properly incentivized to respond promptly to any release and to ensure payment of limited state funds in the tank clean-up program to applicants that are fully compliant with all state legal requirements, and to promote the recovery of the limited state funds available for state initiated clean-ups of contamination when the responsible party refuses to act.

This bill would allow the responsible party to use the UST Fund to discharge its debt to the state for its failure to act to mitigate its gasoline release and may also potentially open access to additional funds. Over-riding the current statutory prohibition would establish a very bad precedent. The implications of



this bill are potentially far reaching. To date there have been approximately 1,500 applicants to the UST Reimbursement Program and if each of them had chosen to refrain from initiating clean up and waited for the state to take initial action, as this bill incentivizes, the state would have had to initiate site by site remedial actions, the value of which approaches \$275 million dollars.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at 424-3401 or Robert.LaFrance@ct.gov