

1 AN ACT in relation to public 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  
5 changing 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  
10 this Act shall be concurrent with that of municipalities and  
11 other political subdivisions. The Office of the State Fire  
12 Marshal has power to promulgate, pursuant to the Illinois  
13 Administrative Procedure Act, reasonable rules and  
14 regulations governing the keeping, storage, transportation,  
15 sale or use of gasoline and volatile oils, including rules  
16 requiring that underground storage tank contractors file a  
17 bond or a certificate of insurance with the State Fire  
18 Marshal, and rules governing the dismantling of abandoned  
19 bulk storage plants. Nothing in this Act shall relieve any  
20 person, corporation, or other entity from complying with any  
21 zoning ordinance of a municipality or home rule unit enacted  
22 pursuant to Section 11-13-1 of the Illinois Municipal Code or  
23 any ordinance enacted pursuant to Section 11-8-4 of the  
24 Illinois Municipal Code.

25 (b) The rulemaking power shall include the power to  
26 promulgate rules providing for the issuance and revocation of  
27 permits allowing the self service dispensing of motor fuels  
28 as such term is defined in the Motor Fuel Tax Law in retail  
29 service stations or any other place of business where motor  
30 fuels are dispensed into the fuel tanks of motor vehicles,  
31 internal combustion engines or portable containers. Such

1 rules shall specify the requirements that must be met both  
2 prior and subsequent to the issuance of such permits in order  
3 to insure the safety and welfare of the general public. The  
4 operation of such service stations without a permit shall be  
5 unlawful. The Office of the State Fire Marshal shall revoke  
6 such permit if the self service operation of such a service  
7 station is found to pose a significant risk to the safety and  
8 welfare of the general public.

9 (c) However, except in any county with a population of  
10 1,000,000 or more, the Office of the State Fire Marshal shall  
11 not have the authority to prohibit the operation of a service  
12 station solely on the basis that it is an unattended  
13 self-service station which utilizes key or card operated  
14 self-service motor fuel dispensing devices. Nothing in this  
15 paragraph shall prohibit the Office of the State Fire Marshal  
16 from adopting reasonable rules and regulations governing the  
17 safety of self-service motor fuel dispensing devices.

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

- 33 (A) agriculture sites for agricultural purposes,
- 34 (B) construction sites for refueling construction

1 equipment used at the construction site,

2 (C) sites used for the parking, operation, or  
3 maintenance of a commercial vehicle fleet, but only if  
4 the site is located in a county with 3,000,000 or more  
5 inhabitants or a county contiguous to a county with  
6 3,000,000 or more inhabitants and the site is not  
7 normally accessible to the public, and

8 (D) sites used for the refueling of police, fire,  
9 or emergency medical services vehicles or other vehicles  
10 that are owned, leased, or operated by (or operated under  
11 contract with) the State, a unit of local government, or  
12 a school district, or any agency of the State and that  
13 are not normally accessible to the public.

14 (2) (a) The Office of the State Fire Marshal shall adopt  
15 rules and regulations regarding underground storage tanks and  
16 associated piping and no municipality or other political  
17 subdivision shall adopt or enforce any ordinances or  
18 regulations regarding such underground tanks and piping other  
19 than those which are identical to the rules and regulations  
20 of the Office of the State Fire Marshal, except that a  
21 municipality with a population greater than 1,000,000 may  
22 adopt and enforce ordinances and regulations more stringent  
23 than the rules and regulations of the Office of the State  
24 Fire Marshal with respect to the removal of underground  
25 storage tanks only. It is declared to be the law of this  
26 State, pursuant to paragraphs (h) and (i) of Section 6 of  
27 Article VII of the Illinois Constitution, that the  
28 establishment and enforcement of standards regarding  
29 underground storage tanks and associated piping within the  
30 jurisdiction of the Office of the State Fire Marshal is an  
31 exclusive State function which may not be exercised  
32 concurrently by a home rule unit except as expressly  
33 permitted in this Act.

34 (b) The Office of the State Fire Marshal may enter into

1 written contracts with municipalities of over 500,000 in  
2 population to enforce the rules and regulations adopted under  
3 this subsection.

4 (3) (a) The Office of the State Fire Marshal shall have  
5 authority over underground storage tanks which contain, have  
6 contained, or are designed to contain petroleum, hazardous  
7 substances and regulated substances as those terms are used  
8 in Subtitle I of the Hazardous and Solid Waste Amendments of  
9 1984 (P.L. 98-616), as amended by the Superfund Amendments  
10 and Reauthorization Act of 1986 (P.L. 99-499). The Office  
11 shall have the power with regard to underground storage tanks  
12 to require any person who tests, installs, repairs, replaces,  
13 relines, or removes any underground storage tank system  
14 containing, formerly containing, or which is designed to  
15 contain petroleum or other regulated substances to be  
16 certified to perform that activity, to obtain a permit to  
17 install, repair, replace, reline, or remove the particular  
18 tank system, to pay an annual certification fee of \$100 per  
19 year, and to pay a fee of \$100 per site for a permit to  
20 install, repair, replace, reline, or remove any underground  
21 storage tank system. All persons who do repairs above grade  
22 level for themselves need not pay a fee or be certified. All  
23 fees received by the Office from certification and permits  
24 shall be deposited in the Fire Prevention Fund for the  
25 exclusive use of the Office in administering the Underground  
26 Storage Tank program.

27 (b) (i) Within 120 days after the promulgation of  
28 regulations or amendments thereto by the Administrator of the  
29 United States Environmental Protection Agency to implement  
30 Section 9003 of Subtitle I of the Hazardous and Solid Waste  
31 Amendments of 1984 (P.L. 98-616) of the Resource Conservation  
32 and Recovery Act of 1976 (P.L. 95-580), as amended, the  
33 Office of the State Fire Marshal shall adopt regulations or  
34 amendments thereto which are identical in substance. The

1 rulemaking provisions of Section 5-35 of the Illinois  
2 Administrative Procedure Act shall not apply to regulations  
3 or amendments thereto adopted pursuant to this subparagraph  
4 (i).

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

19 (c) The Office of the State Fire Marshal shall require  
20 any person, corporation or other entity who tests an  
21 underground tank or its piping or cathodic protection for  
22 another, except a lessor for his or her lessee, to register  
23 with the Office, and pay an annual registration fee of \$100,  
24 to be deposited in the Fire Prevention Fund, and report the  
25 results of such test to the Office.

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

29 (i) Inspecting and investigating to ascertain  
30 possible violations of this Act, of regulations  
31 thereunder or of permits or terms or conditions thereof;  
32 or

33 (ii) In accordance with the provisions of this Act,  
34 taking whatever emergency action, that is necessary or

1 appropriate, to assure that the public health or safety  
2 is not threatened whenever there is a release or a  
3 substantial threat of a release of petroleum or a  
4 regulated substance from an underground storage tank.

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

21 (f) The Office of the State Fire Marshal shall not  
22 require the removal of an underground tank system taken out  
23 of operation before January 2, 1974, except in the case in  
24 which the office of the State Fire Marshal has determined  
25 that a release from the underground tank system poses a  
26 current or potential threat to human health and the  
27 environment. In that case, and upon receipt of an Order from  
28 the Office of the State Fire Marshal, the owner or operator  
29 of the nonoperational underground tank system shall assess  
30 the excavation zone and close the system in accordance with  
31 regulations promulgated by the Office of the State Fire  
32 Marshal.

33 (4) (a) The Office of the State Fire Marshal shall adopt  
34 rules and regulations regarding aboveground storage tanks and

1 associated piping and no municipality or other political  
2 subdivision shall adopt or enforce any ordinances or  
3 regulations regarding such aboveground tanks and piping other  
4 than those which are identical to the rules and regulations  
5 of the Office of the State Fire Marshal unless, in the  
6 interest of fire safety, the Office of the State Fire Marshal  
7 delegates such authority to municipalities, political  
8 subdivisions or home rule units. 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  
11 the establishment of standards regarding aboveground storage  
12 tanks and associated piping within the jurisdiction of the  
13 Office of the State Fire Marshal is an exclusive State  
14 function which may not be exercised concurrently by a home  
15 rule unit except as expressly permitted in this Act.

16 (b) The Office of the State Fire Marshal shall enforce  
17 its rules and regulations concerning aboveground storage  
18 tanks and associated piping; however, municipalities may  
19 enforce any of their zoning ordinances or zoning regulations  
20 regarding aboveground tanks. The Office of the State Fire  
21 Marshal may issue an administrative order to any owner of an  
22 aboveground storage tank and associated piping it reasonably  
23 believes to be in violation of such rules and regulations to  
24 remedy or remove any such violation. Such an order shall be  
25 served by registered or certified mail or in person. Any  
26 person served with such an order may appeal such order by  
27 submitting in writing any such appeal to the Office within 10  
28 days of the date of receipt of such order. The Office shall  
29 conduct an administrative hearing governed by the Illinois  
30 Administrative Procedure Act and enter an order to sustain,  
31 modify or revoke such order. Any appeal from such order  
32 shall be to the circuit court of the county in which the  
33 violation took place and shall be governed by the  
34 Administrative Review Law.

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

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.