

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.