

AN ACT concerning public safety.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Gasoline Storage Act is amended by changing Section 2 as follows:

(430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

Sec. 2. Jurisdiction; regulation of tanks.

(1) (a) Except as otherwise provided in this Act, the jurisdiction of the Office of the State Fire Marshal under this Act shall be concurrent with that of municipalities and other political subdivisions. The Office of the State Fire Marshal has power to promulgate, pursuant to the Illinois Administrative Procedure Act, reasonable rules and regulations governing the keeping, storage, transportation, sale or use of gasoline and volatile oils. Nothing in this Act shall relieve any person, corporation, or other entity from complying with any zoning ordinance of a municipality or home rule unit enacted pursuant to Section 11-13-1 of the Illinois Municipal Code or any ordinance enacted pursuant to Section 11-8-4 of the Illinois Municipal Code.

(b) The rulemaking power shall include the power to promulgate rules providing for the issuance and revocation of permits allowing the self service dispensing of motor fuels as

such term is defined in the Motor Fuel Tax Law in retail service stations or any other place of business where motor fuels are dispensed into the fuel tanks of motor vehicles, internal combustion engines or portable containers. Such rules shall specify the requirements that must be met both prior and subsequent to the issuance of such permits in order to insure the safety and welfare of the general public. The operation of such service stations without a permit shall be unlawful. The Office of the State Fire Marshal shall revoke such permit if the self service operation of such a service station is found to pose a significant risk to the safety and welfare of the general public.

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

(d) The State Fire Marshal shall not prohibit the dispensing or delivery of flammable or combustible motor vehicle fuels directly into the fuel tanks of vehicles from tank trucks, tank wagons, or other portable tanks. The State Fire Marshal shall adopt rules (i) for the issuance of permits

for the dispensing of motor vehicle fuels in the manner described in this paragraph (d), (ii) that establish fees for permits and inspections, and provide for those fees to be deposited into the Fire Prevention Fund, (iii) that require the dispensing of motor fuel in the manner described in this paragraph (d) to meet conditions consistent with nationally recognized standards such as those of the National Fire Protection Association, and (iv) that restrict the dispensing of motor vehicle fuels in the manner described in this paragraph (d) to the following:

(A) agriculture sites for agricultural purposes; ~~and~~

(B) construction sites for refueling construction equipment used at the construction site; ~~and~~

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

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

(E) any of the following sites permitted under the

Environmental Protection Act, provided that the only refueling at the sites is limited to off-road vehicles and equipment used at and for the operation of the sites:

(i) waste disposal sites;

(ii) sanitary landfills; and

(iii) municipal solid waste landfill units.

(2) (a) The Office of the State Fire Marshal shall adopt rules and regulations regarding underground storage tanks and associated piping and no municipality or other political subdivision shall adopt or enforce any ordinances or regulations regarding such underground tanks and piping other than those which are identical to the rules and regulations of the Office of the State Fire Marshal. It is declared to be the law of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the establishment and enforcement of standards regarding underground storage tanks and associated piping within the jurisdiction of the Office of the State Fire Marshal is an exclusive State function which may not be exercised concurrently by a home rule unit except as expressly permitted in this Act.

(b) The Office of the State Fire Marshal may enter into written contracts with municipalities of over 500,000 in population to enforce the rules and regulations adopted under this subsection.

(3) (a) The Office of the State Fire Marshal shall have

authority over underground storage tanks which contain, have contained, or are designed to contain petroleum, hazardous substances and regulated substances as those terms are used in Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499). The Office shall have the power with regard to underground storage tanks to require any person who tests, installs, repairs, replaces, relines, or removes any underground storage tank system containing, formerly containing, or which is designed to contain petroleum or other regulated substances, to obtain a permit to install, repair, replace, reline, or remove the particular tank system, and to pay a fee set by the Office for a permit to install, repair, replace, reline, upgrade, test, or remove any portion of an underground storage tank system. All persons who do repairs above grade level for themselves need not pay a fee or be certified. All fees received by the Office from certification and permits shall be deposited in the Fire Prevention Fund for the exclusive use of the Office in administering the Underground Storage Tank program.

(b) (i) Within 120 days after the promulgation of regulations or amendments thereto by the Administrator of the United States Environmental Protection Agency to implement Section 9003 of Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, the Office

of the State Fire Marshal shall adopt regulations or amendments thereto which are identical in substance. The rulemaking provisions of Section 5-35 of the Illinois Administrative Procedure Act shall not apply to regulations or amendments thereto adopted pursuant to this subparagraph (i).

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

(c) The Office of the State Fire Marshal shall require any person, corporation or other entity who tests an underground tank or its piping or cathodic protection for another to report the results of such test to the Office.

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

(i) Inspecting and investigating to ascertain possible

violations of this Act, of regulations thereunder or of permits or terms or conditions thereof; or

(ii) In accordance with the provisions of this Act, taking whatever emergency action, that is necessary or appropriate, to assure that the public health or safety is not threatened whenever there is a release or a substantial threat of a release of petroleum or a regulated substance from an underground storage tank.

(e) The Office of the State Fire Marshal may issue an Administrative Order to any person who it reasonably believes has violated the rules and regulations governing underground storage tanks, including the installation, repair, leak detection, cathodic protection tank testing, removal or release notification. Such an order shall be served by registered or certified mail or in person. Any person served with such an order may appeal such order by submitting in writing any such appeal to the Office within 10 days of the date of receipt of such order. The Office shall conduct an administrative hearing governed by the Illinois Administrative Procedure Act and enter an order to sustain, modify or revoke such order. Any appeal from such order shall be to the circuit court of the county in which the violation took place and shall be governed by the Administrative Review Law.

(f) The Office of the State Fire Marshal shall not require the removal of an underground tank system taken out of operation before January 2, 1974, except in the case in which

the office of the State Fire Marshal has determined that a release from the underground tank system poses a current or potential threat to human health and the environment. In that case, and upon receipt of an Order from the Office of the State Fire Marshal, the owner or operator of the nonoperational underground tank system shall assess the excavation zone and close the system in accordance with regulations promulgated by the Office of the State Fire Marshal.

(4) (a) The Office of the State Fire Marshal shall adopt rules and regulations regarding aboveground storage tanks and associated piping and no municipality or other political subdivision shall adopt or enforce any ordinances or regulations regarding such aboveground tanks and piping other than those which are identical to the rules and regulations of the Office of the State Fire Marshal unless, in the interest of fire safety, the Office of the State Fire Marshal delegates such authority to municipalities, political subdivisions or home rule units. It is declared to be the law of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the establishment of standards regarding aboveground storage tanks and associated piping within the jurisdiction of the Office of the State Fire Marshal is an exclusive State function which may not be exercised concurrently by a home rule unit except as expressly permitted in this Act.

(b) The Office of the State Fire Marshal shall enforce its



rules and regulations concerning aboveground storage tanks and associated piping; however, municipalities may enforce any of their zoning ordinances or zoning regulations regarding aboveground tanks. The Office of the State Fire Marshal may issue an administrative order to any owner of an aboveground storage tank and associated piping it reasonably believes to be in violation of such rules and regulations to remedy or remove any such violation. Such an order shall be served by registered or certified mail or in person. Any person served with such an order may appeal such order by submitting in writing any such appeal to the Office within 10 days of the date of receipt of such order. The Office shall conduct an administrative hearing governed by the Illinois Administrative Procedure Act and enter an order to sustain, modify or revoke such order. Any appeal from such order shall be to the circuit court of the county in which the violation took place and shall be governed by the Administrative Review Law.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 99. Effective date. This Act takes effect upon becoming law.