

HSB 119

*Rep. Gipp, chm.
Rep. Sievers
Rep. Witt*

ENVIRONMENTAL PROTECTION

HOUSE FILE SF/HF 636

BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION BILL
BY CHAIRPERSON HAHN)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to benefits provided through funds administered
2 by the Iowa comprehensive petroleum underground storage tank
3 fund board.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 455G.21, subsection 2, paragraph a,
2 Code 2001, is amended to read as follows:

3 a. The innocent landowners fund shall be established as a
4 separate fund in the state treasury under the control of the
5 board. The innocent landowners fund shall include any moneys
6 recovered pursuant to cost recovery enforcement under section
7 455G.13. Notwithstanding section 455G.1, subsection 2,
8 benefits for the costs of corrective action ~~shall~~ may be
9 provided to the owner of a petroleum-contaminated property, or
10 an operator of an underground storage tank located on the
11 property, who is not otherwise eligible to receive benefits
12 under section 455G.9 due to the date on which the release
13 causing the contamination was reported. An owner of a
14 petroleum-contaminated property, or an operator of an
15 underground storage tank located on the property, shall be
16 eligible for payment of ~~total~~ corrective action costs subject
17 to copayment requirements under section 455G.9, subsection 4.
18 The board may adopt rules conditioning receipt of benefits
19 under this paragraph to those petroleum-contaminated
20 properties which present a higher degree of risk to the public
21 health and safety or the environment and may adopt rules
22 providing for denial of benefits under this paragraph to a
23 person who did not make a good faith attempt to comply with
24 the provisions of this chapter. This paragraph does not
25 confer a legal right to an owner of petroleum-contaminated
26 property, or an operator of an underground storage tank
27 located on the property, for receipt of benefits under this
28 paragraph.

29 Sec. 2. Section 455G.2, subsection 17, Code 2001, is
30 amended to read as follows:

31 17. "Precorrective action value" means the ~~assessed-value~~
32 ~~of-the-tank-site-immediately-prior-to-the-discovery-of-a~~
33 ~~petroleum-release~~ purchase price of the tank site paid by the
34 owner after October 26, 1990.

35

EXPLANATION

1 This bill amends provisions in the innocent landowners fund
 2 in Code chapter 455G. Currently, benefits under the innocent
 3 landowners fund are provided to an owner of a petroleum-
 4 contaminated property who is not otherwise eligible to receive
 5 benefits under the remedial program of Code chapter 455G. The
 6 bill provides that an operator of an underground storage tank
 7 is also eligible to receive benefits from the innocent
 8 landowners fund. The bill removes mandatory language
 9 requiring that benefits shall be provided to recipients. The
 10 bill provides that benefits from the fund shall be for
 11 corrective action costs, rather than for total corrective
 12 action costs.

13 The bill amends the definition of "precorrective action
 14 value" to mean the purchase price of the tank site paid by the
 15 owner of the tank site after October 26, 1990. This term is
 16 used in Code chapter 455G in relation to the recovery of
 17 remedial account benefits upon the sale of a tank site for
 18 which remedial account benefits were received if the sale
 19 meets certain requirements.

20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35

S. 3/22/01 Nit. Res.
S. 3/29/01 Do Pass

MAR 16 2001
Place On Calendar

HOUSE FILE 636
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 119)

Passed House, Date ^(P. 836) 3/22/01 Passed Senate, Date ^(P. 1025) 4-9-01
Vote: Ayes 96 Nays 0 Vote: Ayes 15 Nays 0
Approved April 18, 2001

A BILL FOR

1 An Act relating to the reporting of underground storage tanks and
2 to benefits provided through funds administered by the Iowa
3 comprehensive petroleum underground storage tank fund board.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 636

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

1 Section 1. Section 455B.473, subsections 7, 8, and 9, Code
2 2001, are amended to read as follows:

3 ~~7.--A-person-who-deposits-a-regulated-substance-in-an~~
4 ~~underground-storage-tank-shall-notify-the-owner-or-operator-in~~
5 ~~writing-of-their-notification-requirements-pursuant-to-this~~
6 ~~section.~~

7 8. A person who sells, installs, modifies, or repairs a
8 tank used or intended to be used as an underground storage
9 tank shall notify the purchaser and the owner or operator of
10 the tank in writing of the owner's notification requirements
11 pursuant to this section including the prohibition on
12 depositing a regulated substance into tanks which have not
13 been registered and issued tags by the department. A person
14 who installs an underground storage tank and the owner or
15 operator of the underground storage tank shall, prior to
16 installing an underground storage tank, notify the department
17 in writing regarding the intent to install a tank.

18 9. It shall be unlawful to deposit or accept a regulated
19 substance in an underground storage tank which has not been
20 registered and issued permanent and annual tank management fee
21 renewal tags pursuant to subsections 1 through 6. It shall
22 also be unlawful to deposit a regulated substance in an
23 underground storage tank after receiving notice from the
24 department that the underground storage tank is not covered by
25 an approved form of financial responsibility in accordance
26 with section 455B.474, subsection 2.

27 The department shall furnish the owner or operator of an
28 underground storage tank with a registration tag for each
29 underground storage tank registered with the department. The
30 owner or operator shall affix the tag to the fill pipe of each
31 registered underground storage tank. ~~A-person-who-conveys-or~~
32 ~~deposits-a-regulated-substance-shall-inspect-the-underground~~
33 ~~storage-tank-to-determine-the-existence-or-absence-of-the~~
34 ~~registration-tag.--If-a-registration-tag-is-not-affixed-to-the~~
35 ~~underground-storage-tank-fill-pipe,-the-person-conveying-or~~

1 ~~depositing the regulated substance may deposit the regulated~~
2 ~~substance in the unregistered tank provided that the deposit~~
3 ~~is allowed only in the single instance, that the person~~
4 ~~reports the unregistered tank to the department of natural~~
5 ~~resources, and that the person provides the owner or operator~~
6 ~~with an underground storage tank registration form and informs~~
7 ~~the owner or operator of the underground storage tank~~
8 ~~registration requirements. The owner or operator is allowed~~
9 ~~fifteen days following the report to the department of the~~
10 ~~owner's or operator's unregistered tank to comply with the~~
11 ~~registration requirements. If an owner or operator fails to~~
12 ~~register or obtain annual renewal tags for the reported~~
13 ~~underground storage tank during the fifteen-day period, the~~
14 ~~owner or operator shall pay a an additional fee of twenty-five~~
15 ~~two hundred fifty dollars upon registration of the tank. A~~
16 ~~fee imposed pursuant to this subsection shall not preclude the~~
17 ~~department from assessing an administrative penalty pursuant~~
18 ~~to section 455B.476.~~

19 Sec. 2. Section 455B.473, Code 2001, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 10. The department may deny issuance of a
22 registration or annual tank management fee renewal tag for
23 failure of the owner or operator to provide proof the
24 underground storage tank is covered by an approved form of
25 financial responsibility as provided in section 455B.474,
26 subsection 2.

27 Sec. 3. Section 455G.21, subsection 2, paragraph a, Code
28 2001, is amended to read as follows:

29 a. The innocent landowners fund shall be established as a
30 separate fund in the state treasury under the control of the
31 board. The innocent landowners fund shall include any moneys
32 recovered pursuant to cost recovery enforcement under section
33 455G.13. Notwithstanding section 455G.1, subsection 2,
34 benefits for the costs of corrective action ~~shall~~ may be
35 provided to the owner of a petroleum-contaminated property, or

1 an owner or operator of an underground storage tank located on
2 the property, who is not otherwise eligible to receive
3 benefits under section 455G.9 due to the date on which the
4 release causing the contamination was reported or the date the
5 claim was filed. An owner of a petroleum-contaminated
6 property, or an owner or operator of an underground storage
7 tank located on the property, shall be eligible for payment of
8 ~~total~~ corrective action costs subject to copayment
9 requirements under section 455G.9, subsection 4. The board
10 may adopt rules conditioning receipt of benefits under this
11 paragraph to those petroleum-contaminated properties which
12 present a higher degree of risk to the public health and
13 safety or the environment and may adopt rules providing for
14 denial of benefits under this paragraph to a person who did
15 not make a good faith attempt to comply with the provisions of
16 this chapter. This paragraph does not confer a legal right to
17 an owner of petroleum-contaminated property, or an owner or
18 operator of an underground storage tank located on the
19 property, for receipt of benefits under this paragraph.

20 Sec. 4. Section 455G.2, subsection 17, Code 2001, is
21 amended to read as follows:

22 17. "Precorrective action value" means the ~~assessed-value~~
23 ~~of-the-tank-site-immediately-prior-to-the-discovery-of-a~~
24 petroleum-release purchase price of the tank site paid by the
25 owner after October 26, 1990.

26 EXPLANATION

27 This bill amends provisions in the innocent landowners fund
28 in Code chapter 455G and provisions relating to the reporting
29 of underground storage tanks in Code chapter 455B.

30 Currently, benefits under the innocent landowners fund are
31 provided to an owner of a petroleum-contaminated property who
32 is not otherwise eligible to receive benefits under the
33 remedial program of Code chapter 455G. The bill provides that
34 an owner or operator of an underground storage tank is also
35 eligible to receive benefits from the innocent landowners

1 fund. The bill removes mandatory language requiring that
2 benefits shall be provided to recipients. The bill provides
3 that benefits from the fund shall be for corrective action
4 costs, rather than for total corrective action costs.

5 The bill amends the definition of "precorrective action
6 value" to mean the purchase price of the tank site paid by the
7 owner of the tank site after October 26, 1990. This term is
8 used in Code chapter 455G in relation to the recovery of
9 remedial account benefits upon the sale of a tank site for
10 which remedial account benefits were received if the sale
11 meets certain requirements.

12 The bill amends Code chapter 455B to eliminate a
13 requirement that a person depositing a regulated substance in
14 an underground storage tank shall notify an owner or operator
15 of the tank regarding the owner's or operator's notification
16 requirements.

17 The bill provides that a person who sells, installs,
18 modifies, or repairs a tank used or intended to be used as an
19 underground storage tank shall notify the purchaser and the
20 owner or operator of the tank in writing of the notification
21 requirements.

22 The bill prohibits the deposit or acceptance of a regulated
23 substance in an underground storage tank which has not been
24 registered and issued permanent and annual tank management fee
25 renewal tags. The bill also prohibits the deposit of a
26 regulated substance in an underground storage tank after
27 receiving notice from the department that the tank is not
28 covered by an approved form of financial responsibility.

29 The bill eliminates an inspection requirement and related
30 provisions for a person who conveys or deposits a regulated
31 substance in an underground storage tank. The bill provides
32 that an owner or operator failing to register or obtain annual
33 renewal tags for a tank shall pay an additional fee of \$250
34 upon registration of the tank.

35 The bill provides that the department may deny issuance of

1 a registration or annual tank management fee renewal tag for
2 failure of the owner or operator to provide proof the
3 underground storage tank is covered by an approved form of
4 financial responsibility.

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

HOUSE FILE 636
FISCAL NOTE

A fiscal note for **House File 636** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 636 makes changes to Iowa's Underground Storage Tank Program. The Bill extends Innocent Landowner Fund benefits to certain owners and operators of underground petroleum storage tanks who are currently ineligible for State-financed cleanup due to contamination reporting date requirements in current law.

The Bill also makes several administrative changes to the Program, mostly relating to tank registration.

FISCAL IMPACT

It is estimated that extending Innocent Landowner benefits to additional owners and operators will add up to ten new sites to the Program at an average cost of \$60,000 per site. Therefore, the fiscal impact would be a maximum of \$600,000 over the next two fiscal years. The money to pay the claims would come from the Underground Storage Tank Innocent Landowner Fund. That Fund has sufficient money available to cover the estimated claims.

SOURCE

Underground Storage Tank Program Administrator

(LSB 2197hv, JWR)

FILED MARCH 21, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 636

AN ACT

RELATING TO THE REPORTING OF UNDERGROUND STORAGE TANKS AND
TO BENEFITS PROVIDED THROUGH FUNDS ADMINISTERED BY THE IOWA
COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455B.473, subsections 7, 8, and 9, Code 2001, are amended to read as follows:

~~7. A person who deposits a regulated substance in an underground storage tank shall notify the owner or operator in writing of their notification requirements pursuant to this section.~~

8. A person who sells, installs, modifies, or repairs a tank used or intended to be used as an underground storage tank shall notify the purchaser and the owner or operator of the tank in writing of the owner's notification requirements pursuant to this section including the prohibition on depositing a regulated substance into tanks which have not been registered and issued tags by the department. A person who installs an underground storage tank and the owner or operator of the underground storage tank shall, prior to installing an underground storage tank, notify the department in writing regarding the intent to install a tank.

9. It shall be unlawful to deposit or accept a regulated substance in an underground storage tank which has not been registered and issued permanent and annual tank management fee renewal tags pursuant to subsections 1 through 6. It shall

also be unlawful to deposit a regulated substance in an underground storage tank after receiving notice from the department that the underground storage tank is not covered by an approved form of financial responsibility in accordance with section 455B.474, subsection 2.

The department shall furnish the owner or operator of an underground storage tank with a registration tag for each underground storage tank registered with the department. The owner or operator shall affix the tag to the fill pipe of each registered underground storage tank. ~~A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the underground storage tank fill pipe, the person conveying or depositing the regulated substance may deposit the regulated substance in the unregistered tank provided that the deposit is allowed only in the single instance, that the person reports the unregistered tank to the department of natural resources, and that the person provides the owner or operator with an underground storage tank registration form and informs the owner or operator of the underground storage tank registration requirements. The owner or operator is allowed fifteen days following the report to the department of the owner's or operator's unregistered tank to comply with the registration requirements. If an owner or operator fails to register or obtain annual renewal tags for the reported underground storage tank during the fifteen-day period, the owner or operator shall pay an additional fee of twenty-five two hundred fifty dollars upon registration of the tank. A fee imposed pursuant to this subsection shall not preclude the department from assessing an administrative penalty pursuant to section 455B.476.~~

Sec. 2. Section 455B.473, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The department may deny issuance of a registration or annual tank management fee renewal tag for failure of the owner or operator to provide proof the underground storage tank is covered by an approved form of financial responsibility as provided in section 455B.474, subsection 2.

Sec. 3. Section 455G.21, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. The innocent landowners fund shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action ~~shall~~ may be provided to the owner of a petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, who is not otherwise eligible to receive benefits under section 455G.9 due to the date on which the release causing the contamination was reported or the date the claim was filed. An owner of a petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, shall be eligible for payment of ~~total~~ corrective action costs subject to copayment requirements under section 455G.9, subsection 4. The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum-contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, for receipt of benefits under this paragraph.

Sec. 4. Section 455G.2, subsection 17, Code 2001, is amended to read as follows:

17. "Precorrective action value" means the assessed-value of-the-tank-site-immediately-prior-to-the-discovery-of-a-petroleum-release purchase price of the tank site paid by the owner after October 26, 1990.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 636, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved *April 18, 2001*

THOMAS J. VILSACK
Governor