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SENATE FILE 2095  
BY PATE, HEDGE, and RIFE

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to petroleum storage tanks by limiting  
2 aboveground tank registration to aboveground petroleum storage  
3 tanks, and by defining where aboveground tanks may be  
4 permitted for retail motor vehicle fuel outlets pursuant to  
5 rules of the state fire marshal, and by removing authority to  
6 inspect tank installations from fire marshals or the state  
7 fire marshal's designee.

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

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1 Section 1. Section 101.12, Code Supplement 1989, is  
2 amended to read as follows:

3 101.12 ABOVEGROUND PETROLEUM TANKS AUTHORIZED.

4 Rules of the state fire marshal shall permit installation  
5 of aboveground petroleum storage tanks for retail motor  
6 vehicle fuel outlets ~~in cities of one thousand or less~~  
7 population except an outlet located within a city of more than  
8 one thousand population shall not be permitted.

9 Sec. 2. Section 101.21, Code Supplement 1989, is amended  
10 to read as follows:

11 101.21 DEFINITIONS.

12 As used in this part unless the context otherwise requires:

13 1. "Aboveground petroleum storage tank" means one or a  
14 combination of tanks, including connecting pipes connected to  
15 the tanks which are used to contain an accumulation of  
16 ~~regulated-substances~~ petroleum and the volume of which,  
17 including the volume of the underground pipes, is more than  
18 ninety percent above the surface of the ground. Aboveground  
19 petroleum storage tank does not include any of the following:

- 20 a. Aboveground tanks of one thousand one hundred gallons
- 21 or less capacity.
- 22 b. Tanks used for storing heating oil for consumptive use
- 23 on the premises where stored.
- 24 c. Underground storage tanks as defined by section
- 25 455B.471.
- 26 d. A flow-through process tank, or a tank containing a
- 27 regulated substance, other than motor vehicle fuel used for
- 28 transportation purposes, for use as part of a manufacturing
- 29 process, system, or facility.

30 2. "Nonoperational aboveground petroleum tank" means an  
31 aboveground storage tank in which ~~regulated-substances-are~~  
32 petroleum is not deposited or from which ~~regulated-substances~~  
33 are petroleum is not dispensed on or after July 1, 1989.

34 3. "Operator" means a person in control of, or having  
35 responsibility for, the daily operation of the an aboveground

1 petroleum storage tank.

2 4. "Owner" means:

3 a. In the case of an aboveground petroleum storage tank in  
4 use on or after July 1, 1989, a person who owns the  
5 aboveground petroleum storage tank used for the storage, use,  
6 or dispensing of regulated-substances petroleum.

7 b. In the case of an aboveground petroleum storage tank in  
8 use before July 1, 1989, but no longer in use on or after that  
9 date, a person who owned the tank immediately before the  
10 discontinuation of its use.

11 5. "Regulated-substance Petroleum" means regulated  
12 substance petroleum as defined in section 455B.471.

13 6. "Release" means spilling, leaking, emitting,  
14 discharging, escaping, leaching, or disposing from an  
15 aboveground petroleum storage tank into groundwater, surface  
16 water, or subsurface soils.

17 7. "State fire marshal" means the state fire marshal, or  
18 the state fire marshal's designee.

19 8. "Tank site" means a tank or grouping of tanks within  
20 close proximity of each other located on the a facility for  
21 the purpose of storing regulated-substances petroleum.

22 Sec. 3. Section 101.22, Code Supplement 1989, is amended  
23 to read as follows:

24 101.22 REPORT OF EXISTING AND NEW TANKS -- REGISTRATION  
25 FEE -- TAG -- PENALTY.

26 1. Except as provided in subsection 2, the owner or  
27 operator of an aboveground petroleum storage tank existing on  
28 or before July 1, 1989, shall notify the state fire marshal in  
29 writing by May 1, 1990, of the existence of each tank and  
30 specify the age, size, type, location, and uses of the tank.

31 2. The owner of an aboveground petroleum storage tank  
32 taken out of operation between January 1, 1979, and July 1,  
33 1989, shall notify the state fire marshal in writing by July  
34 1, 1990, of the existence of the tank unless the owner knows  
35 the tank has been removed from the site. The notice shall

1 specify, to the extent known to the owner, the date the tank  
2 was taken out of operation, the age of the tank on the date  
3 taken out of operation, the size, type, and location of the  
4 tank, and the type and quantity of substances left stored in  
5 the tank on the date that it was taken out of operation.

6 3. An owner or operator which brings into use an  
7 aboveground petroleum storage tank after July 1, 1989, shall  
8 notify the state fire marshal in writing within thirty days of  
9 the existence of the tank and specify the age, size, type,  
10 location, and uses of the tank.

11 4. The registration notice of the owner or operator to the  
12 state fire marshal under subsections 1 through 3 shall be  
13 accompanied by a fee of ten dollars for each tank included in  
14 the notice. All moneys collected shall be deposited in the  
15 general fund.

16 5. A person who deposits ~~a-regulated-substance~~ petroleum  
17 in an aboveground petroleum storage tank shall notify the  
18 owner or operator in writing of the notification requirements  
19 of this section.

20 6. A person who sells or constructs a tank intended to be  
21 used as an aboveground storage tank shall notify the purchaser  
22 of the tank in writing of the notification requirements of  
23 this section applicable to the purchaser.

24 7. It ~~shall-be~~ is unlawful to deposit ~~a-regulated~~  
25 ~~substance~~ petroleum in an aboveground petroleum storage tank  
26 which has not been registered pursuant to subsections 1  
27 through 5 4.

28 The state fire marshal shall furnish the owner or operator  
29 of an aboveground petroleum storage tank with a registration  
30 tag for each aboveground petroleum storage tank registered  
31 with the state fire marshal. The owner or operator shall  
32 affix the tag to the fill pipe of each registered aboveground  
33 petroleum storage tank. A person who conveys or deposits a  
34 ~~regulated-substance~~ petroleum shall inspect the aboveground  
35 petroleum storage tank to determine the existence or absence

1 of the registration tag. If a registration tag is not affixed  
2 to the aboveground petroleum storage tank fill pipe, the  
3 person conveying or depositing the ~~regulated-substance~~  
4 petroleum may deposit the ~~regulated-substance~~ petroleum in the  
5 unregistered tank ~~provided-that.~~ However, the deposit is  
6 allowed only in the single instance, that the person provides  
7 the owner or operator with another notice as required by  
8 subsection 5, and that the person provides the owner or  
9 operator with an aboveground petroleum storage tank  
10 registration form. It is the owner or operator's duty to  
11 comply with registration requirements. A late registration  
12 penalty of twenty-five dollars is imposed in addition to the  
13 registration fee for a tank registered after the required  
14 date.

15 Sec. 4. Section 101.23, Code Supplement 1989, is amended  
16 to read as follows:

17 101.23 STATE FIRE MARSHAL REPORTING RULES.

18 The state fire marshal shall adopt rules pursuant to  
19 chapter 17A relating to reporting requirements necessary to  
20 enable the state fire marshal to maintain an accurate  
21 inventory of aboveground petroleum storage tanks.

22 Sec. 5. Section 101.24, subsections 1 and 2, Code  
23 Supplement 1989, are amended to read as follows:

24 1. Inspect and investigate the facilities and records of  
25 owners and operators of aboveground petroleum storage tanks as  
26 ~~may-be~~ necessary to determine compliance with this division  
27 and the rules adopted pursuant to this division. An  
28 inspection or investigation shall be conducted subject to  
29 subsection 4. For purposes of developing a rule, maintaining  
30 an accurate inventory, or enforcing this division, the  
31 department may:

32 a. Enter at reasonable times ~~any~~ an establishment or other  
33 place where an aboveground storage tank is located.

34 b. Inspect and obtain samples from any person of a  
35 petroleum or another regulated substance and conduct

1 monitoring or testing of the tanks, associated equipment,  
2 contents, or surrounding soils, air, surface water, and  
3 groundwater. Each inspection shall be commenced and completed  
4 with reasonable promptness.

5 (1) If the state fire marshal obtains a sample, prior to  
6 leaving the premises, the fire marshal shall give the owner,  
7 operator, or agent in charge a receipt describing the sample  
8 obtained and if requested a portion of each sample equal in  
9 volume or weight to the portion retained. If the sample is  
10 analyzed, a copy of the results of the analysis shall be  
11 furnished promptly to the owner, operator, or agent in charge.

12 (2) Documents or information obtained from a person under  
13 this subsection shall be available to the public except as  
14 provided in this subparagraph. Upon a showing satisfactory to  
15 the state fire marshal by a person that public disclosure of  
16 documents or information, or a particular part of the  
17 documents or information to which the state fire marshal has  
18 access under this subsection would divulge commercial or  
19 financial information entitled to protection as a trade  
20 secret, the state fire marshal shall consider the documents or  
21 information or the particular portion of the documents or  
22 information confidential. However, the ~~document~~ documents or  
23 information may be disclosed to officers, employees, or  
24 authorized representatives of the United States charged with  
25 implementing the federal Solid Waste Disposal Act, to  
26 employees of the state of Iowa or of other states when the  
27 document or information is relevant to the discharge of their  
28 official duties, and when relevant in any a proceeding under  
29 the federal Solid Waste Disposal Act or this division.

30 2. Maintain an accurate inventory of aboveground petroleum  
31 storage tanks.

32 Sec. 6. Section 455G.11, subsection 6, unnumbered  
33 paragraph 2, Code Supplement 1989, is amended to read as  
34 follows:

35 The board shall adopt rules requiring certification of tank

1 installations and require certification of a new tank  
2 installation as a precondition to offering insurance to an  
3 owner or operator or an installer. The board shall set in the  
4 rule the effective date for the certification requirement.  
5 Certification rules shall at minimum require that an  
6 installation be personally inspected by an independent  
7 licensed engineer, ~~fire-marshat-or-state-fire-marshat's~~  
8 designee or person unaffiliated with the tank owner, operator,  
9 or installer, who is qualified and authorized by the board to  
10 perform the required inspection and that the tank and  
11 installation of the tank comply with applicable technical  
12 standards and manufacturer's instructions and warranty  
13 conditions. An inspector shall not be an owner or operator of  
14 a tank, or an employee of an owner, operator, or installer.  
15 The insurance coverage shall be extended to premium paying  
16 installers on or before December 1, 1989. For the period from  
17 May 5, 1989, to and including the date that insurance coverage  
18 under the fund is extended to installers, the fund shall not  
19 seek third-party recovery from an installer.

20 Sec. 7. Section 445G.17, subsections 1 and 2, Code  
21 Supplement 1989, are amended to read as follows:

22 1. The board shall adopt certification procedures and  
23 standards for the following classes of persons as underground  
24 storage tank installation inspectors:

25 a. A licensed engineer, except that if underground storage  
26 tank installation is within the scope of practice of a  
27 particular class of licensed engineer, additional training  
28 shall not be required for that class. A licensed engineer for  
29 whom underground storage tank installation is within the scope  
30 of practice shall be an "authorized inspector", rather than a  
31 "certified inspector".

32 b. A ~~fire-marshat~~ person unaffiliated with the tank owner,  
33 operator, or installer.

34 2. The board shall adopt approved ~~curricta~~ curriculum for  
35 training both engineers and ~~fire-marshats~~ unaffiliated persons

1 as a precondition to their certification as underground  
2 storage tank installation inspectors.

3 Sec. 8. Section 101.28, Code Supplement 1989, is repealed.

4 EXPLANATION

5 This bill revises an option to dispense motor vehicle fuels  
6 from aboveground tanks in cities of one thousand or less  
7 population which was included in 1989 House File 447, the  
8 underground storage tank bill, 1989 Iowa Acts, chapter 131.  
9 The 1989 Act, as adopted, could be read restrictively, so that  
10 unincorporated towns or rural areas would not be allowed the  
11 option to use aboveground storage tanks. This bill provides  
12 instead that unless the motor vehicle fuel outlet is located  
13 within an incorporated city of greater than one thousand  
14 population, the aboveground option is permitted.

15 The bill also limits registration to aboveground petroleum  
16 storage tanks rather than the current broader class of  
17 aboveground tanks containing regulated substances.

18 The bill removes the authority of a fire marshal or the  
19 state fire marshal's designee to perform tank installation  
20 inspections, and instead permits qualified private persons to  
21 perform such inspections.

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