

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 390

Introduced by Aguilar, 35

Read first time January 16, 2007

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the State Fire Marshal; to amend section
2 81-15,123, Reissue Revised Statutes of Nebraska; to
3 authorize the adoption and promulgation of additional
4 rules and regulations regarding underground storage
5 tanks; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-15,123, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-15,123 The State Fire Marshal shall adopt and
4 promulgate rules and regulations governing release, detection,
5 prevention, and correction procedures applicable to all owners
6 and operators as shall be necessary to protect human health,
7 public safety, and the environment. Such rules and regulations
8 may distinguish between types, classes, and ages of tanks. In
9 making such distinctions, the State Fire Marshal shall consider,
10 but not be limited to, location of the tanks, soil and climate
11 conditions, uses of the tanks, history of maintenance, age of the
12 tanks, current industry-recommended practices, national consensus
13 codes, hydrogeology, depth to the ground water, size of the tanks,
14 quantity of regulated substances periodically deposited in or
15 dispensed from the tanks, the technical capability of the owners
16 and operators, and the compatibility of the regulated substance and
17 the materials of which the tank is fabricated. Before adoption,
18 such rules and regulations shall be reviewed and approved by
19 the Director of Environmental Quality who shall determine whether
20 the proposed rules and regulations are adequate to protect the
21 environment. Rules and regulations adopted and promulgated pursuant
22 to this section shall include, but not be limited to:

23 (1) Proper procedures and specifications for the
24 construction, design, installation, replacement, or repair of
25 tanks;

1 (2) A permit and registration system for all tanks;

2 (3) A program to establish an inspection system for all
3 tanks. Such program shall provide for periodic safety inspections
4 and spot checks of monitoring systems by the State Fire Marshal. A
5 fee schedule may also be developed for the inspection of new tank
6 and piping installations and tank closures in the manner prescribed
7 in section 81-505.01. Such inspection fees shall be remitted by
8 the State Fire Marshal to the State Treasurer for credit to the
9 Underground Storage Tank Fund. No fee shall be charged for the
10 periodic safety inspections and spot checks of monitoring systems
11 by the State Fire Marshal;

12 (4) A monitoring system for all tanks which includes, but
13 is not limited to, the following:

14 (a) An inventory-control procedure for any tank used to
15 hold petroleum products or hazardous substances for resale;

16 (b) An inventory-control procedure for any tank used
17 solely for consumptive onsite purposes and not for resale.
18 Such control procedure shall determine the method of inventory
19 measurement giving consideration to the economic burden created
20 by the procedure. The frequency of inventory measurement for such
21 category of tank shall include at least one measurement every
22 thirty days;

23 (c) Provisions for the prompt reporting of any release of
24 a regulated substance; and

25 (d) A procedure for the proper method of monitoring

1 tanks;

2 (5) A procedure for notifying the State Fire Marshal of
3 temporarily or permanently abandoned tanks;

4 (6) A procedure for removing or making safe any abandoned
5 tanks, except that the State Fire Marshal may dispense with such
6 procedure in special circumstances;

7 (7) Financial responsibility requirements, taking into
8 account the financial responsibility requirements established
9 pursuant to 42 U.S.C. 6991b(d);

10 (8) Requirements for maintaining a leak-detection system,
11 an inventory-control system, and a tank-testing or comparable
12 system or method designed to identify releases in a manner
13 consistent with the protection of human health, public safety,
14 and the environment;

15 (9) Requirements for maintaining records of any
16 monitoring or leak-detection system, inventory-control system, or
17 tank-testing or comparable system; and

18 (10) Provisions to establish a system for licensing tank
19 installation and removal contractors; ~~and~~

20 (11) Provisions to prohibit delivery to, deposit into,
21 or the acceptance of a regulated substance into, an underground
22 storage tank at a facility which has been identified by the State
23 Fire Marshal to be ineligible for such delivery, deposit, or
24 acceptance; and

25 (12) Effective August 8, 2009, requirements for training

1 and certification of operators.

2 Nothing in this section shall be construed to require
3 a subcontractor working under the direction of a licensed
4 installation or removal contractor to be licensed.

5 Sec. 2. Original section 81-15,123, Reissue Revised
6 Statutes of Nebraska, is repealed.