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HOUSE BILL REPORT

SSB 5660

As Passed House:

April 4, 1995

Title: An act relating to heating oil pollution liability.

Brief Description: Providing for heating oil liability protection.

Sponsors: Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Hale, Snyder, Sellar, Fraser, Kohl and Winsley).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/23/95 [DP].

Floor Activity:

Passed House: 4/4/95, 85-10.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 14 members: Representatives L. Thomas, Chairman; Beeksma, Vice Chairman; Smith, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benton; Campbell; Costa; Dyer; Huff; Kessler; Mielke; Ogden and Pelesky.

Staff: Charlie Gavigan (786-7340).

Background: In 1989, the Legislature created a state pollution liability reinsurance program. The program provides insurance to insurance companies (reinsurance) that in turn provide insurance to Underground Storage Tank (UST) owners and operators. The program is administered by the Pollution Liability Insurance Agency (PLIA).

The state reinsurance program's objective is to improve the availability and affordability of pollution liability insurance for owners of USTs by selling reinsurance at a price significantly below the private market price for similar reinsurance. This discount is passed onto owners and operators of USTs through reduced insurance premiums and increased availability of insurance.

To fund the program, the Legislature imposed a petroleum products tax of fifty one-hundredths of 1 percent on the first possession of any petroleum product in the state. The tax applies to the wholesale value of the petroleum product. Petroleum products that are exported for use or sale outside of the state as fuel, and that are packaged for

sale to ultimate consumers, are exempt from taxation. Proceeds from the tax are deposited into the Pollution Liability Reinsurance Program Trust Account to fund the reinsurance program. Collection of this tax must cease whenever the account balance exceeds \$15 million and collection may resume when the balance drops below \$7.5 million. The tax has not been collected since July 1992.

PLIA sunsets on June 1, 1995.

The lending of credit provisions in the state constitution generally prohibit the state and local governments from making gifts, loans, or guarantees to private businesses and individuals. The court has made exceptions for the poor or infirm, for fundamental government purposes, where there is adequate consideration or where the private benefits are incidental to providing important public benefits.

Summary of Bill: A program to provide pollution liability insurance for heating oil tanks is created in the Pollution Liability Insurance Agency. This program is both an insurance program, covering all heating oil tanks in Washington through a new fee, and a reinsurance program similar to the current reinsurance program in PLIA.

A pollution liability insurance fee is imposed on all heating oil purchased for use in the state. The fee is based on the rate of six-tenths of 1 cent per gallon of heating oil purchased. The fee is remitted to the Department of Licensing for deposit into a new fund, the Heating Oil Liability Trust Account. The fund is used for corrective action costs (such as clean-up of accidental releases), third-party liability claims, purchase of an insurance policy to cover registered heating oil tanks, and administrative expenses. Funds remaining in the Heating Oil Liability Trust Account at the end of the biennium revert to the Pollution Liability Insurance Program Trust Account.

The reinsurance program reduces the insurance premium and is funded and operated through the existing Pollution Liability Insurance Program Trust Account.

The exemption from licensing for persons using special fuel for heating purposes is removed. Special fuel is all fuel except fuel for motor vehicles.

The Heating Oil Pollution Liability Protection Program expires June 1, 2001.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Homeowners and others face potential liability or cleanup costs from the use of heating oil tanks. This bill takes money from heating oil purchasers

through a fee and provides liability insurance to cover the liability and other costs associated with owning a heating oil tank. A public program is necessary because private liability insurance for heating oil tanks is not readily available.

Testimony Against: None.

Testified: Glenda Thomas, Oil Heat Institute (pro); and Thomas Allen, Acme Fuel Co. (pro).