

AMENDED IN ASSEMBLY AUGUST 11, 2008

AMENDED IN ASSEMBLY AUGUST 7, 2008

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN SENATE APRIL 1, 2008

**SENATE BILL**

**No. 1574**

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**Introduced by Senator Florez  
(Coauthor: Senator Ducheny)**

February 22, 2008

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An act to add ~~Section 25292.6~~ *Sections 25292.6 and 25292.7* to the Health and Safety Code, relating to underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1574, as amended, Florez. Underground storage tanks: biodiesel.

(1) Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks that are used to store hazardous substances to meet certain requirements with regard to the design, construction, testing, and monitoring of the tank system. These requirements are required to be implemented by a local agency, which is required to inspect every underground storage tank annually and determine whether the tank complies with those design and construction standards.

The Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 requires owners and operators of petroleum underground storage tanks to pay a storage fee for each gallon of petroleum placed in the tank and the fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The State Water Resources Control Board

is authorized to expend money from that fund, upon appropriation by the Legislature, to pay claims to aid eligible owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks.

This bill would define the term “biodiesel” and “biodiesel blend,” and would provide that an underground storage tank *in use before July 1, 2008*, that contains biodiesel or biodiesel blend would be deemed to be in compliance with the requirements imposed upon underground storage tanks storing hazardous substances and petroleum underground storage tanks, if the tank meets certain requirements that are imposed upon an underground storage tank containing diesel or biodiesel blend, or if the operator provides evidence, *supplied by the manufacturer*, of material compatibility, ~~and the local agency determines that the underground storage tank biodiesel employs best management practices, thereby imposing a state-mandated local program by imposing new duties upon local agencies of the underground storage tank system and a warranty by the manufacturer that the system is appropriate for the blend of biodiesel to be stored.~~ The bill would provide that this exemption would be operative only until the board determines that the Underwriters Laboratories, Inc. has established a certification standard for underground storage tanks that contain biodiesel or biodiesel blend, or until January 1, 2011, whichever date is sooner. The bill would authorize a local agency that determines an underground storage tank storing biodiesel or biodiesel blend that is otherwise deemed to be in compliance under the act poses a risk to water quality, to take enforcement action with regard to that underground storage tank.

*The bill also would require the board to develop an Internet Web site to inform operators of underground storage tanks containing biodiesel or biodiesel blend of the current requirements for storing those fuels.*

*This bill would impose a state-mandated local program by imposing new duties upon local agencies related to implementing the requirements imposed by this bill.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) *It is the intent of the Legislature, until the*  
2 *adoption of third-party certification standards for underground*  
3 *storage tanks containing biodiesel and biodiesel blends, to provide*  
4 *interim standards for operators of underground storage tanks*  
5 *containing biodiesel fuels that contain 20 percent or less by volume*  
6 *of biodiesel.*

7     (b) *It is not the intent of the Legislature, in enacting this*  
8 *measure, to deem in compliance with any subsequently adopted*  
9 *standards an underground storage tank system that contains*  
10 *biodiesel or biodiesel blend that is deemed in compliance with the*  
11 *provisions of this measure.*

12     SECTION 1.

13     SEC. 2. Section 25292.6 is added to the Health and Safety  
14 Code, to read:

15     25292.6. (a) For the purposes of this section, the following  
16 terms have the following meanings:

17     (1) “Biodiesel” means a fuel comprised of mono-alkyl esters  
18 of long chain fatty acids derived from vegetable oils or animal  
19 fats, designated B100, that meets the requirements of the American  
20 Society for Testing and Materials (ASTM) Standard Specification  
21 D-6751, and the registration requirements of the United States  
22 Environmental Protection Agency as a fuel and as a fuel additive  
23 under the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

24     (2) “Biodiesel blend” means a fuel that contains one percent to  
25 99.9 percent biodiesel blended with diesel fuel, as defined in  
26 Section 13401 of the Business and Professions Code. *For purposes*  
27 *of this section, where a biodiesel blend is designated BX, X*  
28 *represents the percentage of the fuel, by volume, that is biodiesel.*

29     (b) Except as provided in subdivisions (d) and (e), an  
30 underground storage tank *that is in use before July 1, 2008, and*  
31 *that contains a biodiesel blend of ~~B20~~ B5 or less shall be deemed*  
32 *in compliance with this chapter and Chapter 6.75 (commencing*  
33 *with Section 25299.10) if the underground storage tank meets both*  
34 *of the following requirements:*

35     (1) ~~The underground storage tank is in compliance with this~~ *the*  
36 *underground storage tank is in compliance with this chapter and*  
37 *Chapter 6.75 (commencing with Section 25299.10), and the*  
38 *regulations adopted pursuant to those provisions, including, but*

1 not limited to, the requirement to make the payments specified in  
2 Section 25299.41, in the same manner as those requirements would  
3 apply to an underground storage tank that contains diesel.

4 ~~(2) The local agency determines that the underground storage~~  
5 ~~tank employs best management practices, including, but not limited~~  
6 ~~to, using a double-walled tank and double-walled piping that are~~  
7 ~~manufactured on or after January 1, 1987, or the operator is able~~  
8 ~~to provide evidence of material compatibility.~~

9 (c) (1) Except as provided in subdivisions (d) and (e), an  
10 underground storage tank *that is in use before July 1, 2008, and*  
11 *that contains biodiesel or a biodiesel blend higher than B20 B5,*  
12 *and up to and including B20,* shall be deemed in compliance with  
13 this chapter and Chapter 6.75 (commencing with Section 2599.10)  
14 if the underground storage tank meets both of the following  
15 requirements:

16 ~~(1)~~

17 (A) The underground storage tank is in compliance with this  
18 chapter and Chapter 6.75 (commencing with Section 25299.10),  
19 and the regulations adopted pursuant to those provisions, including,  
20 but not limited to, the requirement to make the payments specified  
21 in Section 25299.41, in the same manner as those requirements  
22 would apply to an underground storage tank that contains diesel.

23 ~~(2)~~

24 (B) ~~The local agency determines that the underground storage~~  
25 ~~tank employs best management practices, including, but not limited~~  
26 ~~to, using a double-walled tank and double-walled piping that are~~  
27 ~~manufactured on or after January 1, 1987 and that include~~  
28 ~~interstitial liquid level measurement methods as defined in Chapter~~  
29 ~~16 (commencing with Section 2610) of Division 3 of Title 23 of~~  
30 ~~the California Code of Regulations or the operator is able to~~  
31 ~~provide evidence of material compatibility.~~ *to, using a*  
32 *double-walled tank constructed pursuant to Section 25290.1 or*  
33 *the operator is able to provide evidence, supplied by the*  
34 *manufacturer of the underground storage tank, of material*  
35 *compatibility of the underground storage tank system and a*  
36 *warranty by the manufacturer that the system is appropriate for*  
37 *the blend of biodiesel to be stored.*

38 (2) *This subdivision does not prohibit an operator of an*  
39 *underground storage tank containing a biodiesel blend higher*  
40 *than B5, and up to and including B20, from transferring, after*

1 *July 1, 2008, the biodiesel blend into an underground storage tank*  
2 *that complies with the requirements of paragraph (2).*

3 (d) The exemption provided in subdivisions (b) and (c) for an  
4 underground storage tank that contains biodiesel or a biodiesel  
5 blend shall become inoperative on and after the following dates,  
6 whichever date is sooner:

7 (1) The effective date when the board determines that  
8 Underwriters Laboratories, Inc. has established a certification  
9 standard for underground storage tanks that contain biodiesel or  
10 a biodiesel blend.

11 (2) January 1, 2011.

12 (e) If a local agency determines that an underground storage  
13 tank storing biodiesel or a biodiesel blend that is otherwise in  
14 compliance with the requirements of subdivisions (b) and (c) poses  
15 a risk to water quality, the local agency may take enforcement  
16 action with regard to that underground storage tank pursuant to  
17 this chapter.

18 *SEC. 3. Section 25292.7 is added to the Health and Safety*  
19 *Code, to read:*

20 *25292.7. The board shall develop, with existing funds, an*  
21 *Internet Web site to inform operators of underground storage tanks*  
22 *containing biodiesel, as defined in paragraph (1) of subdivision*  
23 *(a) of Section 25292.6, or biodiesel blend, as defined in paragraph*  
24 *(2) of subdivision (a) of Section 25292.6, of the current*  
25 *requirements for storing those fuels.*

26 ~~SEC. 2.~~

27 *SEC. 4.* No reimbursement is required by this act pursuant to  
28 Section 6 of Article XIII B of the California Constitution because  
29 a local agency or school district has the authority to levy service  
30 charges, fees, or assessments sufficient to pay for the program or  
31 level of service mandated by this act, within the meaning of Section  
32 17556 of the Government Code.