

Introduced by Senator GalgianiFebruary 18, 2016

An act to amend Section 25270.2 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 1147, as introduced, Galgiani. Hazardous materials: aboveground storage tanks.

The Aboveground Petroleum Storage Act generally regulates aboveground storage tanks that contain petroleum and that meet certain requirements. The act defines an "aboveground storage tank" as a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground or a tank in an underground area, as defined, except for certain types of tanks and vessels. Existing law makes a violation of certain provisions of the act a crime.

This bill would amend the definition of "aboveground storage tank" to mean a tank that has the capacity to store 55 gallons or more of transportation fuel and that is substantially or totally above the surface of the ground or a tank in an underground area, as defined, except for certain types of tanks and vessels. The bill would define "transportation fuel" to include petroleum, ethanol, and biodiesel.

By expanding the kinds of aboveground storage tanks that would be regulated by the act, the bill would expand the application of a crime, thereby imposing a state-mandated local program.

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. Section 25270.2 of the Health and Safety Code
2 is amended to read:
3 25270.2. For purposes of this chapter, the following definitions
4 apply:
5 (a) “Aboveground storage tank” or “storage tank” means a tank
6 that has the capacity to store 55 gallons or more of ~~petroleum~~
7 *transportation fuel* that is substantially or totally above the surface
8 of the ground, except that, for purposes of this chapter,
9 “aboveground storage tank” or “storage tank” includes a tank in
10 an underground area. “Aboveground storage tank” does not include
11 any of the following:
12 (1) A pressure vessel or boiler that is subject to Part 6
13 (commencing with Section 7620) of Division 5 of the Labor Code.
14 (2) A tank containing hazardous waste or extremely hazardous
15 waste, as respectively defined in Sections 25117 and 25115, if the
16 Department of Toxic Substances Control has issued the person
17 owning or operating the tank a hazardous waste facilities permit
18 for the storage tank.
19 (3) An aboveground oil production tank that is subject to Section
20 3106 of the Public Resources Code.
21 (4) Oil-filled electrical equipment, including, but not limited
22 to, transformers, circuit breakers, or capacitors, if the oil-filled
23 electrical equipment meets either of the following conditions:
24 (A) The equipment contains less than 10,000 gallons of dielectric
25 fluid.
26 (B) The equipment contains 10,000 gallons or more of dielectric
27 fluid with PCB levels less than 50 parts per million, appropriate
28 containment or diversionary structures or equipment are employed
29 to prevent discharged oil from reaching a navigable water course,
30 and the electrical equipment is visually inspected in accordance
31 with the usual routine maintenance procedures of the owner or
32 operator.

1 (5) A tank regulated as an underground storage tank under
2 Chapter 6.7 (commencing with Section 25280) of this division and
3 Chapter 16 (commencing with Section 2610) of Division 3 of Title
4 23 of the California Code of Regulations and that does not meet
5 the definition of a tank in an underground area.

6 (6) A transportation-related tank facility, subject to the authority
7 and control of the United States Department of Transportation, as
8 defined in the Memorandum of Understanding between the
9 Secretary of Transportation and the Administrator of the United
10 States Environmental Protection Agency, as set forth in Appendix
11 A to Part 112 (commencing with Section 112.1) of Subchapter D
12 of Chapter I of Title 40 of the Code of Federal Regulations.

13 (7) A tank or tank facility located on and operated by a farm
14 that is exempt from the federal spill prevention, control, and
15 countermeasure rule requirements pursuant to Part 112
16 (commencing with Section 112.1) of Subchapter D of Chapter I
17 of Title 40 of the Code of Federal Regulations.

18 (b) “Board” means the State Water Resources Control Board.

19 (c) (1) “Certified Unified Program Agency” or “CUPA” means
20 the agency certified by the Secretary for Environmental Protection
21 to implement the unified program specified in Chapter 6.11
22 (commencing with Section 25404) within a jurisdiction.

23 (2) “Participating Agency” or “PA” means an agency that has
24 a written agreement with the CUPA pursuant to subdivision (d)
25 of Section 25404.3, and is approved by the secretary, to implement
26 and enforce the unified program element specified in paragraph
27 (2) of subdivision (c) of Section 25404, in accordance with Sections
28 25404.1 and 25404.2.

29 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
30 or its participating agencies to the extent that each PA has been
31 designated by the CUPA, pursuant to a written agreement, to
32 implement and enforce the unified program element specified in
33 paragraph (2) of subdivision (c) of Section 25404. The UPAs have
34 the responsibility and authority, to the extent provided by this
35 chapter and Sections 25404.1 to 25404.2, inclusive, to implement
36 and enforce the requirements of this chapter.

37 (B) After a CUPA has been certified by the secretary, the unified
38 program agency shall be the only agency authorized to enforce the
39 requirements of this chapter.

1 (C) This paragraph does not limit the authority or responsibility
2 granted to the office, the board, and the regional boards by this
3 chapter.

4 (d) “Office” means the Office of the State Fire Marshal.

5 (e) “Operator” means the person responsible for the overall
6 operation of a tank facility.

7 (f) “Owner” means the person who owns the tank facility or
8 part of the tank facility.

9 (g) “Person” means an individual, trust, firm, joint stock
10 company, corporation, including a government corporation,
11 partnership, limited liability company, or association. “Person”
12 also includes any city, county, district, the University of California,
13 the California State University, the state, any department or agency
14 thereof, and the United States, to the extent authorized by federal
15 law.

16 (h) ~~“Petroleum”~~ “*Transportation fuel*” means ~~crude~~ *all of the*
17 *following*:

18 (1) *Crude* oil, or a fraction thereof, that is liquid at 60 degrees
19 Fahrenheit temperature and 14.7 pounds per square inch absolute
20 pressure.

21 (2) *Ethanol*.

22 (3) *Biodiesel*.

23 (i) “Regional board” means a California regional water quality
24 control board.

25 (j) “Release” means any spilling, leaking, pumping, pouring,
26 emitting, emptying, discharging, escaping, leaching, or disposing
27 into the environment.

28 (k) “Secretary” means the Secretary for Environmental
29 Protection.

30 (l) “Storage” or “store” means the containment, handling, or
31 treatment of ~~petroleum~~, *transportation fuel*, for a period of time,
32 including on a temporary basis.

33 (m) “Storage capacity” means the aggregate capacity of all
34 aboveground storage tanks at a tank facility.

35 (n) “Tank facility” means one or more aboveground storage
36 tanks, including any piping that is integral to the tanks, that contain
37 ~~petroleum~~ *transportation fuel* and that are used by an owner or
38 operator at a single location or site. For purposes of this chapter,
39 a pipe is integrally related to an aboveground storage tank if the
40 pipe is connected to the tank and meets any of the following:

- 1 (1) The pipe is within the dike or containment area.
- 2 (2) The pipe is between the containment area and the first flange
- 3 or valve outside the containment area.
- 4 (3) The pipe is connected to the first flange or valve on the
- 5 exterior of the tank, if state or federal law does not require a
- 6 containment area.
- 7 (4) The pipe is connected to a tank in an underground area.
- 8 (o) (1) “Tank in an underground area” means a storage tank to
- 9 which all of the following apply:
- 10 (A) The storage tank is located in a structure that is at least 10
- 11 percent below the ground surface, including, but not limited to, a
- 12 basement, cellar, shaft, pit, or vault.
- 13 (B) The structure in which the storage tank is located, at a
- 14 minimum, provides for secondary containment of the contents of
- 15 the tank, piping, and ancillary equipment, until cleanup occurs. A
- 16 shop-fabricated double-walled storage tank with a mechanical or
- 17 electronic device used to detect leaks in the interstitial space meets
- 18 the requirement for secondary containment of the contents of the
- 19 tank.
- 20 (C) The storage tank meets one or more of the following
- 21 conditions:
- 22 (i) The storage tank contains ~~petroleum~~ *transportation fuel* to
- 23 be used or previously used as a lubricant or coolant in a motor
- 24 engine or transmission, oil-filled operational equipment, or
- 25 oil-filled manufacturing equipment, is situated on or above the
- 26 surface of the floor, and the structure in which the tank is located
- 27 provides enough space for direct viewing of the exterior of the
- 28 tank except for the part of the tank in contact with the surface of
- 29 the floor.
- 30 (ii) The storage tank only contains ~~petroleum~~ *transportation*
- 31 *fuel* that is determined to be a hazardous waste, complies with the
- 32 hazardous waste tank standards pursuant to Article 10
- 33 (commencing with Section 66265.190) of Chapter 15 of Title 22
- 34 of the California Code of Regulations as it may be amended, and
- 35 the tank facility has been issued a unified program facility permit
- 36 pursuant to Section 25404.2 for generation, treatment,
- 37 accumulation, or storage of hazardous waste.
- 38 (iii) The storage tank contains ~~petroleum~~ *transportation fuel*
- 39 and is used solely in connection with a fire pump or an emergency
- 40 system, legally required standby system, or optional standby system

1 as defined in the most recent version of the California Electrical
2 Code (Section 700.2 of Article 700, Section 701.2 of Article 701,
3 and Section 702.2 of Article 702, of Chapter 7 of Part 3 of Title
4 24 of the California Code of Regulations), is situated on or above
5 the surface of the floor, and the structure in which the tank is
6 located provides enough space for direct viewing of the exterior
7 of the tank except for the part of the tank in contact with the surface
8 of the floor.

9 (iv) The storage tank does not meet the conditions in clauses
10 (i), (ii), or (iii), but meets all of the following conditions:

11 (I) It contains ~~petroleum~~ *transportation fuel*.

12 (II) It is situated on or above the surface of the floor.

13 (III) The structure in which the tank is located provides enough
14 space for direct viewing of the exterior of the tank, except for the
15 part of the tank in contact with the surface of the floor, and all
16 piping connected to the tank, including any portion of a vent line,
17 vapor recovery line, or fill pipe that is beneath the surface of the
18 ground, and all ancillary equipment, can either be visually
19 inspected by direct viewing or has both secondary containment
20 and leak detection that meet the requirements of the regulations
21 adopted by the office pursuant to Section 25270.4.1.

22 (2) For a shop-fabricated double-walled storage tank, direct
23 viewing of the exterior of the tank is not required under paragraph
24 (1) if inspections of the interstitial space are performed or if it has
25 a mechanical or electronic device that will detect leaks in the
26 interstitial space.

27 (3) (A) A storage tank in an underground area is not subject to
28 Chapter 6.7 (commencing with Section 25280) if the storage tank
29 meets the definition of a tank in an underground area, as provided
30 in paragraph (1) and, except as specified in subparagraph (B), the
31 regulations that apply to all new and existing tanks in underground
32 areas and buried piping connected to tanks in underground areas
33 have been adopted by the office pursuant to Section 25270.4.1.

34 (B) A storage tank meeting the description of clause (i) of
35 subparagraph (C) of paragraph (1) shall continue to be subject to
36 this chapter, and excluded from the definition of an underground
37 storage tank in Chapter 6.7 (commencing with Section 25280),
38 before and after the date the regulations specific to tanks in
39 underground areas have been adopted by the office.

1 (p) “Viewing” means visual inspection, and “direct viewing”
2 means, in regard to a storage tank, direct visual inspection of the
3 exterior of the tank, except for the part of the tank in contact with
4 the surface of the floor, and, where applicable, the entire length
5 of all piping and ancillary equipment, including all exterior
6 surfaces, by a person or through the use of visual aids, including,
7 but not limited to, mirrors, cameras, or video equipment.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.