

## Assembly Bill No. 1491

### CHAPTER 808

An act to amend Sections 25284 and 25299.50 of, and to add Section 25292.3 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 8, 1997. Filed  
with Secretary of State October 9, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1491, Cunneen. Hazardous substances: petroleum underground storage tanks.

(1) Under existing law, with specified exceptions, no person may own or operate an underground storage tank containing hazardous substances unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located. Existing law requires an underground storage tank permit to require compliance with certain design and construction requirements and allows a permit to include a schedule of compliance, when necessary, to allow a reasonable opportunity to comply with certain applicable requirements or regulations.

This bill would delete the provision allowing the permit to include a schedule of compliance and would instead require a permit issued for a petroleum underground storage tank system that meets specified requirements to include an upgrade compliance certificate, as prescribed, that documents that the petroleum underground storage tank system meets those requirements. The bill would require the owner to place the certificate in a conspicuous location that can be readily viewed by any person depositing petroleum into the underground storage tank system.

The bill would require the State Water Resources Control Board, by December 22, 1998, to notify all persons that may deliver petroleum to an underground storage tank of where they can obtain a list of underground storage tank facilities that have been issued an upgrade compliance certificate.

The bill would prohibit any person on or after January 1, 1999, from depositing petroleum into an underground storage tank system unless the underground storage tank system meets those described requirements. The bill would require a person depositing petroleum into such an underground storage tank system to verify that the system meets those requirements by taking one of specified actions.

(2) Under existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, every owner of an underground storage tank for which a permit is required is required to pay a specified storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by the board, upon appropriation by the Legislature, for various purposes, including the costs of implementing the act, payment of a California regional water quality control board's or local agency's corrective action costs, and the payment of claims to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. The board is required to provide a letter of credit authorizing the payment of corrective action costs from the fund to a claimant whose cost estimate for corrective action has been approved by the board.

This bill would allow the board to reallocate to other corrective action claims any funds appropriated in the annual Budget Act for the payment of a corrective action claim that is encumbered pursuant to a letter of credit but is not expended. The bill would require the board to make a report at least once every 3 months to specified committees of the Legislature and to the Director of Finance on the implementation of those provisions.

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

SECTION 1. Section 25284 of the Health and Safety Code is amended to read:

25284. (a) (1) Except as provided in subdivision (c), no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

(2) If the operator is not the owner of the tank, or if the permit is issued to a person other than the owner or operator of the tank, the permittee shall ensure that both the owner and the operator of the tank are provided with a copy of the permit.

(3) If the permit is issued to a person other than the operator of the tank, that person shall do all of the following:

(A) Enter into a written agreement with the operator of the tank to monitor the tank system as set forth in the permit.

(B) Provide the operator with a copy or summary of Section 25299 in the form that the board specifies by regulation.

(C) Notify the local agency of any change of operator.

(b) Each local agency shall prepare a form that provides for the acceptance of the obligations of a transferred permit by any person



who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days from the date that the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days from the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (b). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(d) A permit issued pursuant to this section shall apply and require compliance with all applicable regulations adopted by the board pursuant to Section 25299.3.

(e) A permit issued for a petroleum underground storage tank system that meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3 shall include an upgrade compliance certificate, the color, size, and content of which shall be specified by the board, that documents that the petroleum underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations. The owner shall place the upgrade compliance certificate in a conspicuous location that can be readily viewed by any person depositing petroleum into the underground storage tank system.

(f) On or before December 22, 1998, the board shall notify all persons that may deliver petroleum to an underground storage tank of where they can obtain a list of underground storage tank facilities that have been issued an upgrade compliance certificate. Local agencies shall maintain a list of underground storage tank facilities that have been issued an upgrade compliance certificate and shall provide this information to anyone requesting it.

SEC. 2. Section 25292.3 is added to the Health and Safety Code, to read:

25292.3. (a) On and after January 1, 1999, no person shall deposit petroleum into an underground storage tank system unless the underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3.



(b) Any person depositing petroleum into an underground storage tank system shall verify that the system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292, and related regulations adopted pursuant to Section 25299.3, by taking one of the following actions:

(1) Viewing the upgrade compliance certificate for the petroleum underground storage tank system displayed pursuant to subdivision (e) of Section 25284.

(2) Obtaining written verification from the local agency that the petroleum underground storage tank system is on a list maintained by a local agency pursuant to subdivision (f) of Section 25284.

(3) Obtaining a correct copy of the upgrade compliance certificate from the owner or operator of the petroleum underground storage tank system.

SEC. 3. Section 25299.50 of the Health and Safety Code is amended to read:

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) All of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

(5) Any civil penalties collected by the board or regional board pursuant to Section 25299.76.

(c) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57. The board shall report at least once every three months on the implementation of this subdivision to the Senate Committee on Budget and Fiscal Review, the Senate Committee on Environmental Quality, the Assembly Committee on Budget, and the Assembly



Committee on Environmental Safety and Toxic Materials, or to any successor committee, and to the Director of Finance.

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