

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 96

Introduced by Assembly Member Ruskin
(Principal coauthor: Assembly Member Chesbro)
(Coauthors: Assembly Members Carter, Miller, and Nielsen)

January 6, 2009

An act to amend Sections 25299.81, 25299.105, 25299.109, and 25299.117 of the Health and Safety Code, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 96, as amended, Ruskin. Gasoline: underground storage tanks.

(1) Existing law provides for the regulation of underground storage tanks by the State Water Resources Control Board. Existing law requires the board to take specified actions with regard to unauthorized releases from petroleum underground storage tanks, including, among other things, adopting regulations requiring the owners of those tanks to undertake certain actions.

Existing law provides for a grant and loan program for small businesses to pay specified costs of complying with the underground storage tank regulations adopted by the board. Existing law contains various eligibility criteria for grant funds, including a requirement that the grant applicant, the applicant's family, or an affiliated entity, has owned and operated the project tank since January 1, 1997.

This bill would delete that ownership requirement from the grant eligibility criteria.

(2) Under existing law, the grant and loan program is funded through the Petroleum Underground Storage Tank Financing Account. Existing law allows not more than 33% of the available funds to be used for the purpose of providing grants. Existing law requires the interest and other increments resulting from the investment of the funds in the account to be placed in a separate subaccount to be expended for the administration of the program.

This bill would make a one time transfer of \$8,000,000 from the administrative subaccount to be appropriated for the purpose of making grants *and loans* in the 2008–09 and 2009–10 fiscal years, ~~and would exclude these funds from the amount of funds from which grants are provided pursuant to existing law.~~

(3) Existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, provides, in part, for the establishment of an Underground Storage Tank Cleanup Fund to pay for various costs of corrective action and abatement for the unauthorized release of hazardous materials from underground storage tanks. The provisions of this act will expire January 1, 2016. Under existing law, upon the expiration of the Petroleum Underground Storage Tank Financing Account on January 1, 2011, the funds remaining in that account revert to the Underground Storage Tank Cleanup Fund.

This bill would extend the repeal date of the grant and loan program as well as the Petroleum Underground Storage Tank Financing Account to January 1, 2016. Additionally, it would make provisions for the payment of loans and grants, conditions of which were effective prior to January 1, 2016, from the Underground Storage Tank Cleanup Fund and the Petroleum Underground Storage Tank Financing Account, as specified.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 25299.81 of the Health and Safety Code
2 is amended to read:

1 25299.81. (a) Except as provided in subdivisions (b) and (c),
2 this chapter shall remain in effect only until January 1, 2016, and
3 as of that date is repealed, unless a later enacted statute, which is
4 enacted before January 1, 2016, deletes or extends that date.

5 (b) Notwithstanding subdivision (a), Article 1 (commencing
6 with Section 25299.10), Article 2 (commencing with Section
7 25299.11), and Article 4 (commencing with Section 25299.36)
8 shall not be repealed and shall remain in effect on January 1, 2016.

9 (c) The repeal of certain portions of this chapter does not
10 terminate any of the following rights, obligations, or authorities,
11 or any provision necessary to carry out these rights and obligations:

12 (1) The filing and payment of claims against the fund, including
13 the costs specified in subdivisions (c), (e), and (h) of Section
14 25299.51, and claims for commingled plumes, as specified in
15 Article 11 (commencing with Section 25299.90), until the moneys
16 in the fund are exhausted. Upon exhaustion of the fund, any
17 remaining claims shall be invalid.

18 (2) The repayment of loans, outstanding as of January 1, 2016,
19 due and payable to the board.

20 (3) The recovery of moneys reimbursed to a claimant to which
21 the claimant is not entitled, or the resolution of any cost recovery
22 action.

23 (4) The collection of unpaid fees that are imposed pursuant to
24 Article 5 (commencing with Section 25299.40), as that article read
25 on December 31, 2015, or have become due before January 1,
26 2016, including any interest or penalties that accrue before, on, or
27 after January 1, 2016, associated with those unpaid fees.

28 (5) (A) The filing of an application for funds from, and the
29 making of payments from, the Underground Storage Tank
30 Petroleum Contamination Orphan Site Cleanup Fund pursuant to
31 Section 25299.50.2, any action for the recovery of moneys paid
32 pursuant to Section 25299.50.2 to which the recipient is not
33 entitled, and the resolution of that cost recovery action.

34 (B) Upon liquidation of funds in the Underground Storage Tank
35 Petroleum Contamination Orphan Site Cleanup Fund, the obligation
36 to make a payment from the Underground Storage Tank Petroleum
37 Contamination Orphan Site Cleanup Fund is terminated.

38 (6) (A) The payment of loans and grants, consistent with the
39 terms of agreements that were effective prior to January 1, 2016,
40 from the Underground Storage Tank Cleanup Fund, pursuant to

1 this chapter or the Petroleum Underground Storage Tank Financing
2 Account pursuant to Chapter 6.76 (commencing with Section
3 25299.100). Upon exhaustion of the Underground Storage Tank
4 Cleanup Fund, any remaining claims for payment of grants or
5 loans shall be invalid.

6 (B) The amount of money disbursed for grants and loans
7 pursuant to Chapter 6.76 (commencing with Section 25299.100)
8 shall not exceed the sum of following:

9 (i) The amount that reverts to the Underground Storage Tank
10 Cleanup Fund pursuant to Section 25299.111.

11 (ii) Amounts recovered through the repayment of loans granted
12 pursuant to Chapter 6.76 (commencing with Section 25299.100).

13 (iii) The resolution of any cost recovery action filed prior to
14 January 1, 2016, or the initiation of an action or other collection
15 process to recover defaulted loan moneys due to the board or to
16 recover money paid to a grant or loan recipient pursuant to Chapter
17 6.76 (commencing with Section 25299.100) to which the recipient
18 is not entitled.

19 (d) The board shall continuously post and update on its Internet
20 Web site, but at a minimum, annually on or before September 30,
21 information that describes the status of the fund and shall make
22 recommendations, when appropriate, to improve the efficiency of
23 the program.

24 SEC. 2. Section 25299.105 of the Health and Safety Code is
25 amended to read:

26 25299.105. (a) The board shall make grant funds available
27 from the Petroleum Underground Storage Tank Financing Account
28 to eligible grant applicants who meet all of the following eligibility
29 requirements:

30 (1) The grant applicant is a small business, pursuant to the
31 following requirements:

32 (A) The grant applicant meets the conditions for a small business
33 concern as defined in Section 632 of Title 15 of the United States
34 Code, and in the federal regulations adopted to implement that
35 section, as specified in Part 121 (commencing with Section
36 121.101) of Chapter I of Title 13 of the Code of Federal
37 Regulations.

38 (B) The grant applicant employs fewer than 20 full-time and
39 part-time employees, is independently owned and operated, and
40 is not dominant in its field of operation.

1 (2) The principal office of the grant applicant is domiciled in
2 the state and the officers of the grant applicant are domiciled in
3 this state.

4 (3) All tanks owned and operated by the grant applicant are
5 subject to compliance with Chapter 6.7 (commencing with Section
6 25280), and the regulations adopted pursuant to that chapter.

7 (4) The facility where the project tank is located has sold at
8 retail less than 900,000 gallons of gasoline annually for each of
9 the two years preceding the submission of the grant application.
10 The number of gallons sold shall be based upon taxable sales
11 figures provided to the State Board of Equalization for that facility.

12 (5) The grant applicant owns or operates a tank that is in
13 compliance with Section 25290.1, 25290.2, or 25291, or
14 subdivisions (d) and (e) of Section 25292, and the regulations
15 adopted to implement those sections.

16 (6) The facility where the project tank is located was legally in
17 business retailing gasoline after January 1, 1999.

18 (b) Grant funds may only be used to pay the costs necessary to
19 comply with the requirements of Section 25284.1, 25292.4, or
20 25292.5.

21 (c) If the total amount of grant requests by eligible grant
22 applicants to the board pursuant to this section exceeds, or is
23 anticipated to exceed, the amount in the Petroleum Underground
24 Storage Tank Financing Account, the board may adopt a priority
25 ranking list to award grants based upon the level of demonstrated
26 financial hardship of the eligible grant applicant or the relative
27 impact upon the local community where the project tank is located
28 if the claim is denied.

29 SEC. 3. Section 25299.109 of the Health and Safety Code is
30 amended to read:

31 25299.109. (a) The Petroleum Underground Storage Tank
32 Financing Account is hereby created in the State Treasury. The
33 Petroleum Underground Storage Tank Financing Account is created
34 for both of the following purposes:

35 (1) Receiving federal, state, and local money.

36 (2) Receiving repayments of loans and interest and late fees on
37 those accounts.

38 (b) Upon appropriation by the Legislature, funds in the account
39 shall be used by the board only to make loans and grants pursuant
40 to this chapter.

1 (c) The board shall annually make available not more than 33
2 percent of the available funds from the account, ~~other than funds~~
3 ~~transferred pursuant to subdivision (e)~~, for the purposes of
4 providing grants pursuant to this chapter.

5 (d) Notwithstanding Section 16305.7 of the Government Code,
6 all interest or other increments resulting from the investment of
7 the funds in the Petroleum Underground Storage Tank Financing
8 Account pursuant to Article 4 (commencing with Section 16470)
9 of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government
10 Code shall be deposited in a subaccount of the Petroleum
11 Underground Storage Tank Financing Account, and expended only
12 pursuant to Section 25299.113.

13 (e) The sum of eight million dollars (\$8,000,000) is hereby
14 transferred from the subaccount established in subdivision (d) to
15 the Petroleum Underground Storage Tank Financing Account and
16 is appropriated for the purpose of making grants *and loans* pursuant
17 to this chapter in the 2008–09 and 2009–10 fiscal years.

18 SEC. 4. Section 25299.117 of the Health and Safety Code is
19 amended to read:

20 25299.117. This chapter is repealed as of January 1, 2016,
21 unless a later enacted statute that is enacted on or before January
22 1, 2016, deletes or extends that date.

23 SEC. 5. This act is an urgency statute necessary for the
24 immediate preservation of the public peace, health, or safety within
25 the meaning of Article IV of the Constitution and shall go into
26 immediate effect. The facts constituting the necessity are:

27 In order to immediately finance projects critical to the protection
28 of the environment it is necessary that this act, at the earliest
29 possible time, take effect immediately.