

# ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 9-159

"District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 9-286 on first and second readings, June 2, 1992, and July 7, 1992, respectively. Following the signature of the Mayor on July 21, 1992, this legislation was assigned Act No. 9-253, published in the July 31, 1992, edition of the D.C. Register, (Vol. 39 page 5690) and transmitted to Congress on July 23, 1992 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 9-159, effective September 29, 1992.



JOHN A. WILSON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July 23,24,27,28,29,30,31

August 3,4,5,6,7,10,11,12

September 8,9,10,11,14,15,16,17,18,21,22,23,24,25,28

Codification

AN ACT

District of Columbia Code

D.C. ACT 9-253

(1993 Supplement)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 21, 1992

To amend the District of Columbia Underground Storage Tank Management Act of 1990 to make technical and clarifying amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992".

Sec. 2. The District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Code §6-995.1 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Code §6-995.1) is amended as follows:

Section 6-995.1

(1) Paragraph (3) is amended by striking everything after the word "facility" except the period.

(2) A new paragraph (4) is added to read as follows:

"(4) "Owner" means:

"(A) In the case of an underground storage tank in use on or after November 8, 1984, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; or

"(B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned a tank immediately before discontinuation of its use."

(3) Paragraph (9)(A) is amended by adding a new sub-subparagraph (v) to read as follows:

"(v) The owner of real property where an underground storage tank is or was located or where contamination from an underground storage tank is discovered if the owner or operator of the tank as defined in sections 3 and 4 cannot be located or is insolvent, or, if the real property owner refuses without good cause to permit the owner or operator of the tank access to the property to investigate or remediate the site."

(b) Section 3 (D.C. Code §6-995.2) is amended as follows:

Section 6-995.2

(1) Subsection (b) is amended by striking the word "not" between the words "be" and "required".

(2) A new subsection (g) is added to read as follows:

"(g) Beginning 30 days after the effective date of the District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992, any person who sells real property in the District of Columbia upon which underground storage tanks are located, or from

which underground storage tanks have been removed during the seller's ownership, shall inform each prospective buyer in writing, prior to entering into a contract for sale, of the existence or removal of any tanks of which the seller has knowledge."

(c) Section 4(a) (D.C. Code §6-995.3(a)) is amended to read as follows:

Section  
6-995.3

"(a) Any responsible party or any authorized agent of a responsible party; any person who tests, installs, or removes tanks; any person who engages in site investigation, assessment, remediation, or geotechnical exploration; or any public utility company or authorized agent of a public utility company who knows, or has reason to know, of a release from an underground storage tank shall notify the Mayor of the release."

(d) Section 6(b) (D.C. Code §6-995.5(b)) is amended to read as follows:

Section  
6-995.5

"(b) The Fund shall be financed through tank fees, including registration, licensure, certification, and inspection fees, civil penalties, costs and judgments recovered, grants, contributions, and monies received as reimbursement pursuant to the provisions of this act."

(e) Section 7(c)(2) (D.C. Code §6-995.6(c)(2)) is amended to read as follows:

Section  
6-995.6

"(2) \$200 for an initial registration and \$100 for a renewal registration for a tank of 10,000 gallons or under."

(f) Section 9 (D.C. Code §6-995.8) is amended as follows:

Section  
6-995.8

(1) Subsection (a)(1) is amended to read as follows:

"(1) Enter without delay any place where an underground storage tank is or has been located or where a release is suspected;"

(2) A new subsection (d-1) is added to read as follows:

"(d-1) The Mayor, or his or her designated agent, may enter upon property to perform, or cause to be performed, corrective actions necessary to protect human health or the environment under the circumstances set forth in section 6(d). The Mayor shall give prior notice of the action to the owner or operator and the real property owner by first attempting personal service or service by registered mail, and, if unsuccessful, by providing notice by publication and conspicuous posting on the property."

(3) Subsection (e) is amended to read as follows:

"(e) The Mayor may take summary corrective action if a release of a regulated substance from an underground storage tank creates an imminent threat to human health or the environment. The Mayor shall provide an opportunity for a hearing with respect to the summary action without prejudice to the authority of the Mayor to take and complete the action. The Mayor shall give prior notice of the action to the owner, operator, or agent in charge and the real property owner, by personal service or by registered mail, and by conspicuous posting on the property, unless the emergency nature of the situation makes prior notice by personal service or registered mail impractical. If the owner, operator, or agent in charge cannot be located, notice shall be provided by conspicuous posting on the property."

(g) Section 10 (D.C. Code §6-995.9) is amended as follows:

Section  
6-995.9

(1) Subsection (a)(1) is repealed.

(2) Subsection (b) is amended to read as follows:

"(b) If a person fails to comply with a notice of violation issued pursuant to subsection (a) of this section within the time stated in the

notice, the Mayor may issue a proposed compliance order, or a proposed cease and desist order, or may institute a court action for injunctive relief, damages, civil penalties, or recovery of any corrective action costs, necessary to promptly and effectively terminate the violation or threatened violation and protect life, property, or the environment.

"(1) A proposed compliance order or proposed cease and desist order issued under this section shall include a statement of the nature of the violation, afford the right to a hearing, and allow a reasonable time for compliance with the order, consistent with the likelihood of harm and the need to protect health, safety, life, property, and the environment, and shall state any penalties to be assessed for failure to comply with the order.

"(2) A proposed order issued under this section shall become effective and final unless the person or persons named therein request a hearing no later than 15 days after the order is served. If requested, the public hearing shall be conducted in compliance with the requirements of section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code §1-1509) ("APA")."

(3) Subsection (c) is amended to read as follows:

"(c)(1) The Mayor may issue an immediate compliance order, or an immediate cease and desist order, or may seek a temporary restraining order, without first issuing a notice of violation or threatened violation pursuant to subsection (a) of this section and without first providing reasonable notice and an opportunity to be heard pursuant to subsection (b) of this section, in order to require a person to correct a situation which immediately threatens public health or the environment or to restrain any person from engaging in any unauthorized activity that immediately endangers or causes damage to public health or the environment.

"(2) A compliance order or cease and desist order issued under this section shall be effective upon issuance and shall become final unless the person named in the order requests a public hearing within 72 hours after the order is served. If requested, the Mayor shall hold a hearing within 15 days from the date the hearing request is received and shall issue a decision no later than 15 days after the hearing. The hearing shall be conducted in compliance with section 10 of the District of Columbia APA."

(4) Subsection (d) is amended to read as follows:

"(d) Any person who fails to comply with a final compliance order or a final cease and desist order issued pursuant to this section shall be liable for a civil penalty of not more than \$25,000 for each day of noncompliance."

(5) Subsection (e) is amended to read as follows:

"(e) Any person who knowingly fails to notify or submits false information pursuant to section 3 (a) through (f) shall be subject to a civil penalty not to exceed \$10,000 for each violation."

(6) Subsection (f) is amended by striking the number "3" after the word "section" and inserting the number "13" in its place.

(7) Subsection (h) is amended by striking the word "prosecution" and inserting the word "action" in its place.

(8) A new subsection (j) is added to read as follows:

"(j) The Mayor may cause to be entered any final order requiring a party to take corrective action or to pay fines, penalties, or costs as a judgment against the party in the Superior Court of the District of Columbia. The Mayor may enforce the judgment in the same manner as any other civil judgment may be enforced under District law."

(9) A new subsection (k) is added to read as follows:

"(k) Any person adversely affected or aggrieved by a final order issued pursuant to this section may appeal to the District of Columbia Court of Appeals."

(h) Section 11(e) (D.C. Code §6-995.10(e)) is amended by striking the phrase "D.C. Code, sec. 1-1511" and inserting the phrase "D.C. Code §1-1510" in its place.

Section  
6-995.10

(i) Section 12 (D.C. Code §6-995.11) is amended as follows:

Section  
6-995.11

(1) Subsection (d) is amended to read as follows:

"(d) No action may be commenced under subsection (a) of this section if the Mayor has commenced and is diligently prosecuting an action to obtain compliance with the requirements of this act or rules issued pursuant to this act."

(2) A new subsection (f) is added to read as follows:

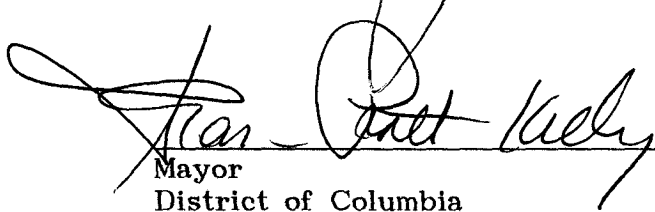
"(f) An owner or operator who enters on the property of another person in order to investigate or remediate a leaking underground storage tank site shall be liable for any damages to person or property which results from the action of the owner or operator or the agents of the owner or operator."

(j) Section 13(a)(8) (D.C. Code §6-995.12(a)(8)) is amended by striking the phrase "development, revision, implementation," and inserting the word "implementation" in its place.

Section  
6-995.12

Sec. 3. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia

APPROVED: July 21, 1992



# COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

## RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 9-286

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 6-2-92

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT \_\_\_\_\_

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Debra Jones  
Secretary to the Council

July 8, 1992  
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 7-7-92

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT \_\_\_\_\_

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Debra Jones  
Secretary to the Council

July 8, 1992  
Date

Item on Consent Calendar

ACTION & DATE: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Recorded vote on request

Absent: \_\_\_\_\_

ROLL CALL VOTE: — RESULT \_\_\_\_\_

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date