

S. 538

An Act to Facilitate Homeowners Remediating Oil Spills

Filing Date: January 2007

Sponsors: Sen. Pamela Resor (Senate lead sponsor), Rep. Patricia A. Walrath (House lead sponsor), Rep. David P. Linsky, Sen. Stephen M. Brewer, Rep. Robert M. Koczera, Rep. David B. Sullivan, Rep. Steven D'Amico, Rep. William Brownsberger, Rep. Denise Provost, Rep. John W. Scibak, Rep. James M. Murphy, Rep. Barbara A. L'Italien, Rep. Peter V. Kocot, Rep. Stephen Kulik, Rep. Timothy J. Toomey, Jr, Rep. Joyce A. Spiliotis, Rep. Denis E. Guyer

The Home Liquid Fuel Release Problem:

Each year, there are approximately 350-400 home heating oil releases on Massachusetts residential properties.

These liquid fuel releases can have serious adverse health, environmental and financial impacts if not addressed promptly and properly.

The costs of investigating and cleaning up a home heating oil spill in accordance with Department of Environmental Protection (DEP) regulations can range from several thousand dollars for minor spills to over \$250,000 for the worst spills that contaminate groundwater or surface water. The average cost is about \$50,000.

These costs are beyond the means of many homeowners. Funding cleanup costs can have serious financial impacts on almost any family, depleting retirement or college savings, or requiring significant borrowing if loans are available.

To the surprise of many homeowners, the costs of responding to most heating oil releases are not covered by Massachusetts homeowners' insurance policies.

A task force representing stakeholders including homeowners, lenders, environmentalists, business and commercial interests, environmental consultants and heating oil dealers studied this problem for over two years and developed this proposed legislation to address it.

The Solution:

S. 538 would attack the problem of preventing and funding the cleanup of residential heating oil spills in three basic ways.

Prevention: It creates requirements and incentives to prevent residential heating oil releases by requiring homeowners who own liquid fuel tanks to upgrade their heating systems by June 30, 2010 by:

- Placing all fuel supply lines in direct contact with concrete or earth in enclosed protective sleeves (many unprotected lines are currently beneath a basement floor where they can corrode and leak long before a release is detected);
- Installing a fuel safety shut-off valve; or
- Employing other leak detection methods approved by the Board of Fire Prevention Regulations.

Either the local fire department or a qualified contractor must inspect these upgrades.

Funding through insurance coverage: The bill requires Massachusetts homeowners insurers to provide coverage, with specified minimum limits and deductibles, for the costs of investigating and cleaning up home heating oil releases.

- Coverage would include: 1) damage to the insured's own property, including on-site soil cleanup costs, up to \$50,000; and 2) cleanup costs for contaminated groundwater or the property of others, up to \$200,000.
- Insurers would be authorized to charge reasonable premiums for such coverage and to include reasonable deductibles up to \$1,000. They would also be authorized to increase the premium for higher-risk underground storage tanks for liquid fuel.

Addressing liquid fuel releases through homeowners insurance was viewed to be the most efficient mechanism to provide funding for their prompt cleanup without imposing new state fees or taxes or creating a new state bureaucracy to administer and pay such claims. Insurers would have flexibility in implementing the required coverage.

Funding through a betterment agreement: The bill would enable homeowners to seek a betterment agreement with their local Board of Health to finance the cleanup of residential oil spills.

Legislative History:

This original version of this bill was filed in 2002. After it was favorably reported out of the Committee on Environment, Natural Resources and Agriculture, on July 20, 2004, it passed in the Senate as S. 2456. The House did not have the opportunity to vote on the bill before the end of the 2003-2004 session.

S. 538 was favorably reported out of the Committee on Environment, Natural Resources and Agriculture on June 30, 2005 and by the Senate Ways & Means Committee on October 26, 2005. The Senate unanimously passed the bill on November 3, 2005. The House did not have the opportunity to vote on the bill before the end of the 2005-2006 session.

S. 538 (coincidentally, the same bill number) was filed in January 2007.

Organizations Supporting the Bill Include:

- Licensed Site Professional Association
- Boston Bar Association (Environmental Section)
- Massachusetts Municipal Association
- Massachusetts Oilheat Council
- NAIOP
- Greater Boston Real Estate Board
- Massachusetts Bankers Association
- Conservation Law Foundation
- Environmental League of Massachusetts
- Massachusetts Audubon Society
- American Council of Engineering Companies of Massachusetts