

HOUSE BILL NO. 552

INTRODUCED BY T. NELSON, HARPER

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 3, 1989	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 20, 1989	PRINTING REPORT.
MARCH 22, 1989	SECOND READING, DO PASS.  ENGROSSING REPORT.
MARCH 23, 1989	THIRD READING, PASSED. AYES, 85; NOES, 13.  TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 27, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.  FIRST READING.
APRIL 6, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 10, 1989	SECOND READING, CONCURRED IN.
APRIL 12, 1989	THIRD READING, CONCURRED IN. AYES, 34; NOES, 13.  RETURNED TO HOUSE.

IN THE HOUSE

APRIL 12, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 552  
2 INTRODUCED BY Sam Nelson  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
5 LICENSING OF UNDERGROUND STORAGE TANK INSTALLERS; TO PROVIDE  
6 FOR PERMITTING OF INSTALLATIONS AND CLOSURES OF UNDERGROUND  
7 STORAGE TANKS; TO PROVIDE FOR INSPECTIONS DURING TANK  
8 INSTALLATIONS OR CLOSURES; TO AUTHORIZE FEES FOR LICENSES,  
9 PERMITS, AND INSPECTIONS; TO CREATE AN UNDERGROUND STORAGE  
10 TANK LICENSE AND PERMIT ACCOUNT; TO LOAN \$50,000 FROM THE  
11 GENERAL FUND TO THE ACCOUNT FOR THE LICENSING, PERMITTING,  
12 AND INSPECTION PROGRAM; TO PROVIDE AN EXEMPTION FROM THE  
13 SUNRISE AUDIT REQUIREMENT; AND PROVIDING EFFECTIVE DATES."

14  
15 STATEMENT OF INTENT

16 It is the intent of the legislature that the department  
17 of health and environmental sciences adopt rules necessary  
18 to govern the installation and closure of underground  
19 storage tanks, including rules governing:

- 20 (1) permits for installations and closures;  
21 (2) licenses and requirements for tank installers;  
22 (3) inspections and inspectors;  
23 (4) fees for licenses, permits, and inspections; and  
24 (5) distribution of funds to local governments.  
25

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 NEW SECTION. Section 1. Short title. [Sections 1  
3 through 18] may be cited as the "Montana Underground Storage  
4 Tank Installer Licensing and Permitting Act".

5 NEW SECTION. Section 2. Findings and purpose. (1)  
6 Leaking underground storage tanks have been identified as a  
7 significant source of underground contamination and as a  
8 potential hazard for fire and explosion. Government and  
9 industry studies show that a major cause of leaking  
10 underground storage tanks is improper installation or  
11 closure. Proper installation or closure requires  
12 specialized knowledge, training, and experience.

13 (2) To protect the health of Montana citizens and the  
14 quality of state waters and other natural resources, it is  
15 the intent of the legislature to require permits for the  
16 installation or closure of underground storage tanks; to  
17 limit the conduct of these activities to persons with  
18 demonstrated competence, training, and experience; and to  
19 assess fees to support state and local administration of  
20 permitting, licensing, and inspection activities.

21 NEW SECTION. Section 3. Definitions. As used in  
22 [sections 1 through 18], unless the context requires  
23 otherwise, the following definitions apply:

24 (1) "Board" means the board of health and  
25 environmental sciences provided for in 2-15-2104.

(2) "Closure" or "to close" means the process of properly removing or filling in place an underground storage tank that is no longer in service.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) (a) "Installation" or "to install" means the placement of an underground storage tank, including excavation, tank placement, backfilling, and piping of underground portions of the underground storage tank that store or convey regulated substances. Installation also includes repair or modification of an underground storage tank through such means as tank relining or the repair or replacement of valves, fillpipes, piping, vents, or in-tank liquid-level monitoring systems.

(b) The terms do not include:

(i) the process of conducting a precision (tightness) test to establish the integrity of the underground storage tank;

(ii) the installation of a leak detection device that is external to and not attached to the underground storage tank; or

(iii) the installation and maintenance of a cathodic protection system.

(5) "Installer" means an individual who is engaged in

the business of installation or closure of underground storage tanks.

(6) "License" means a license issued by the department under [section 6] to conduct the installation or closure of underground storage tanks.

(7) "Licensed installer" means an individual who holds a valid underground storage tank installer license.

(8) "Operator" means a person in control of or having responsibility for the operation, maintenance, or management of an underground storage tank.

(9) "Owner" means a person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances.

(10) "Person" means an individual, firm, trust, estate, partnership, company, association, corporation (whether organized for profit or not), city, town, local governmental entity, or any other governmental or private entity.

(11) "Regulated substance" means a regulated substance as defined in 75-10-403.

(12) "Underground storage tank" means an underground storage tank as defined in 75-10-403.

**NEW SECTION. Section 4. Rulemaking authority.** The department may adopt rules governing the installation and closure of underground storage tanks. Rules may include but are not limited to the following:

(1) the requirements for issuance, denial, renewal, modification, suspension, and revocation of permits for the installation and closure of underground storage tanks;

(2) the requirements for issuance, denial, renewal, modification, suspension, and revocation of licenses for underground storage tank installers;

(3) the requirements for examination and training of underground storage tank installers;

(4) the requirements for qualifications of inspectors, use of inspectors, and methods for conducting an inspection;

(5) a schedule of fees for obtaining licenses and license renewals by underground storage tank installers;

(6) a schedule of fees for the review of applications for underground storage tank permits;

(7) a schedule of fees for inspection of installations or closures; and

(8) the mechanism for remittance of inspection or permitting fees to local governments.

**NEW SECTION. Section 5. Permits -- requirement for licensed installer.** (1) An owner or operator of an underground storage tank may not install or close, or cause to be installed or closed, an underground storage tank without a permit issued by the department as provided in [section 8].

(2) In addition to obtaining a permit, an owner or

operator shall obtain the services of a licensed installer for the installation or closure of an underground storage tank unless the installation or closure is:

(a) inspected by a department inspector or a designated local inspector as provided in [section 9]; or

(b) exempt from the requirement for a licensed installer, as provided in [section 10].

**NEW SECTION. Section 6. Licensing -- interim licenses -- regular licenses.** (1) An installer may not install or close an underground storage tank unless he has a valid license issued by the department.

(2) From April 1, 1990, through September 30, 1990, the department shall grant an installer an interim license if the installer submits, on a form supplied by the department, information demonstrating competency and experience in the installation and closure of underground storage tanks. All interim licenses expire on October 1, 1990.

(3) The department shall grant an installer a regular license, beginning October 1, 1990, if the installer demonstrates competency and experience in the installation and closure of underground storage tanks, passes a written examination conducted by the department, and pays the license fee established by department rule.

(4) The department shall conduct written examinations

1 for the purpose of qualifying individuals to receive an  
2 underground storage tank installer license. The department  
3 shall determine the times and locations of the examinations  
4 and shall provide public notice of the examinations.

5 (5) An underground storage tank installer license is  
6 valid for a period not to exceed 3 years and is subject to  
7 periodic renewal as prescribed by department rule.

8 (6) As a condition of renewal, the department may  
9 require that an installer demonstrate continuing competency  
10 in the installation and closure of tanks.

11 (7) An installer need not be a Montana resident to  
12 qualify for a license.

13 NEW SECTION. **Section 7.** Denial, modification,  
14 suspension, or revocation of license -- grounds. (1) The  
15 department may deny, modify, condition, suspend, or revoke a  
16 license if the installer:

17 (a) fails to achieve a passing grade on a written  
18 examination;

19 (b) fails to pay a license fee;

20 (c) commits fraud or deceit with respect to the  
21 license application;

22 (d) has had a similar license suspended or revoked in  
23 another state or territory; or

24 (e) violates any state or federal law, rule, permit,  
25 or order relating to the installation or closure of an

1 underground storage tank.

2 (2) If the department modifies, conditions, suspends,  
3 or revokes a license, it shall inform the applicant or  
4 license holder in writing of the reason for the action. The  
5 installer may request a hearing before the board. If the  
6 board grants a hearing, the hearing must be held in  
7 accordance with the provisions of the Montana Administrative  
8 Procedure Act.

9 NEW SECTION. **Section 8.** Permits -- application  
10 procedure -- issuance. (1) Before the installation or  
11 closure of an underground storage tank, the owner or  
12 operator shall file a permit application with the department  
13 on forms provided by the department. The time between the  
14 filing of a permit application with the department and the  
15 installation or closure may be provided by department rule.  
16 The department may provide by rule for emergency permits to  
17 apply to emergency conditions pertaining to the installation  
18 or closure of underground storage tanks.

19 (2) The permit application must, at a minimum, require  
20 the owner or operator to provide information concerning:

21 (a) the date of the tank installation or closure;

22 (b) the location of the tank installation or closure;

23 (c) the type of construction of the tank;

24 (d) the contents of the tank being closed or the  
25 anticipated contents of the tank being installed; and

(e) the name of the licensed installer who will be installing or closing the underground storage tank or, if the owner or operator is not going to have the underground storage tank installed or closed by a licensed installer, the estimated date for inspection by the department.

(3) After receipt of a completed application that meets the requirements of this section and any rules adopted under [section 4(1)], the department shall issue the permit.

**NEW SECTION. Section 9. Inspection of installations and closures -- fee.** (1) After being issued a permit, an owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed installer. The owner or operator shall provide timely notice to the department of the date and location of the underground storage tank installation or closure and shall establish with the department the time when an inspection may be conducted.

(2) An owner or operator may conduct an installation or closure under this section only if an inspector is present.

(3) An inspection fee must be paid by the owner or operator to the department to cover the costs associated with an inspection. The inspection is not considered complete until the owner or operator pays the fee.

(4) Department officials or local government officers,

such as local health officers, sanitarians, local fire chiefs, or other persons designated or hired by the department, shall conduct inspections on behalf of the department.

(5) The department shall pay the person conducting an inspection on the department's behalf, as provided in subsection (4), from the underground storage tank license and permit account established in [section 18] up to 80% of any fee collected by the department for the inspection. When an inspection is conducted by an officer of a county or city, the payment must be made by the department to the appropriate county or city treasurer. A county or city shall use payments received under this section only for costs incurred in conducting inspections under this section.

(6) A copy of an installation inspection report must be kept on file by the owner or operator for as long as the department may require by rule. A copy of a closure inspection report must be kept by the owner or operator for 3 years after the date of closure.

(7) The department may enter and inspect the premises or any appurtenant property of an owner or operator at any time to ensure compliance with laws or rules pertaining to underground storage tanks.

**NEW SECTION. Section 10. Exemption.** The owner or operator of a farm or residential tank with a capacity of

1 1,100 gallons or less that is used for storing motor fuel  
 2 for noncommercial purposes or a tank used for storing  
 3 heating oil for consumptive use on the premises where stored  
 4 shall obtain a permit for the installation or closure of the  
 5 tank but is not required to obtain the services of a  
 6 licensed installer.

7 NEW SECTION. **Section 11. Administrative enforcement.**

8 (1) When the department believes that a person has violated  
 9 [sections 1 through 18], a rule adopted thereunder, or a  
 10 permit provision, it may serve written notice of the  
 11 violation on the person or his agent. The notice must  
 12 specify the alleged violation and the facts that constitute  
 13 the alleged violation. The notice may include an order to  
 14 provide information pertaining to the installation or  
 15 closure or an order to take necessary corrective action  
 16 within a reasonable time as stated in the order. The notice  
 17 and order may be signed and served by a department inspector  
 18 if it is personally given to the person or to his agent.  
 19 Every other notice and order must be signed by the director  
 20 of the department or his deputy and must be served by  
 21 certified mail upon the person or his agent. The order  
 22 becomes final unless, within 30 days after the notice is  
 23 served, the person requests in writing a hearing before the  
 24 board. On receipt of the request, the board shall schedule a  
 25 hearing. Service by mail is complete on the date of

1 mailing.

2 (2) If, pursuant to a hearing held under subsection  
 3 (1), the board finds that a violation has occurred, it shall  
 4 either affirm or modify the department's order. An order  
 5 issued by the department or the board may prescribe the date  
 6 by which the violation must cease and may prescribe time  
 7 limits for particular action. If, after a hearing, the board  
 8 finds that no violation has occurred, it shall rescind the  
 9 department's order.

10 (3) Instead of issuing an order pursuant to subsection  
 11 (1), the department may either:

12 (a) require the alleged violator to appear before the  
 13 board for a hearing at a time and place specified in the  
 14 notice and answer the charges described in the notice of  
 15 violation; or

16 (b) initiate action under [section 12, 14, or 15].

17 (4) This section does not prevent the board or  
 18 department from attempting to obtain voluntary compliance  
 19 through issuance of a warning, a conference, or any other  
 20 appropriate administrative or judicial means.

21 NEW SECTION. **Section 12. Injunctions.** The department  
 22 may institute and maintain in the name of the state actions  
 23 for injunctive relief as provided in Title 27, chapter 19.  
 24 to:

25 (1) immediately restrain any person from engaging in



1 unauthorized activity that is endangering public health or  
2 causing damage to the environment;

3 (2) enjoin a violation of [sections 1 through 18], a  
4 rule adopted under [sections 1 through 18], or an order of  
5 the department or the board; or

6 (3) require compliance with [sections 1 through 18], a  
7 rule adopted under [sections 1 through 18], or an order of  
8 the department or the board.

9 NEW SECTION. Section 13. Imminent hazard. Upon  
10 receipt of evidence that the installation or closure of an  
11 underground storage tank may present an imminent and  
12 substantial danger to public health or the environment, the  
13 department may commence administrative or judicial  
14 proceedings to immediately abate the danger or to restrain,  
15 order, or enjoin any person from causing the danger. The  
16 department may take other judicial or administrative action  
17 as may be necessary.

18 NEW SECTION. Section 14. Civil penalties. (1) Any  
19 person who violates any provision of [sections 1 through  
20 18], a rule adopted under [sections 1 through 18], or an  
21 order of the department or the board is subject to a civil  
22 penalty not to exceed \$10,000 per violation. Each day of  
23 violation of [sections 1 through 18], a rule adopted under  
24 [sections 1 through 18], or an order constitutes a separate  
25 violation.

1 (2) The department may institute and maintain in the  
2 name of the state any enforcement proceedings under this  
3 section. Upon request of the department, the attorney  
4 general or the county attorney of the county where the  
5 violation occurred shall petition the district court to  
6 impose, assess, and recover the civil penalty.

7 (3) Action under this section does not bar:

8 (a) enforcement of [sections 1 through 18], rules  
9 adopted under [sections 1 through 18], orders of the  
10 department or the board, or terms of a license or permit by  
11 injunction or other appropriate remedy; or

12 (b) action under [section 15].

13 NEW SECTION. Section 15. Criminal penalties. (1) Any  
14 owner or operator who knowingly installs or closes an  
15 underground storage tank without a permit and either an  
16 inspection or the use of the services of a licensed  
17 installer as required in [section 5]; any installer who  
18 knowingly installs or closes an underground storage tank  
19 without being licensed; or any person who knowingly makes  
20 any false statements or representations in any application,  
21 permit, report, licensing form, or other document filed or  
22 maintained as required by [sections 1 through 18] or  
23 required by rules adopted under [sections 1 through 18] is  
24 subject to a fine not to exceed \$10,000 for each violation  
25 or imprisonment not to exceed 6 months, or both. Each day of

1 violation constitutes a separate violation.

2 (2) A person convicted of a second or subsequent  
3 criminal violation is subject to a fine not to exceed  
4 \$20,000 for each violation or imprisonment not to exceed 1  
5 year, or both. Each day of violation constitutes a separate  
6 violation.

7 (3) Action under this section does not bar enforcement  
8 of [sections 1 through 18], rules adopted under [sections 1  
9 through 18], orders of the department or the board, or terms  
10 of a license or permit by injunction or other appropriate  
11 remedy.

12 NEW SECTION. Section 16. Compliance with other laws  
13 --limitation on local ordinances. (1) Nothing in [sections 1  
14 through 18] limits or alters the responsibility of an owner,  
15 operator, or installer to comply with all other state laws  
16 or rules.

17 (2) Ordinances adopted by local government units  
18 requiring installation or closure permits or licensed  
19 installers, or both, may be no less stringent than the  
20 requirements of [sections 1 through 18].

21 NEW SECTION. Section 17. Application of other law.  
22 (1) The provisions of [sections 1 through 18] and rules  
23 adopted under [sections 1 through 18] govern if they  
24 conflict with other provisions of Montana law or any action  
25 taken by the department under the other provisions of law.

1 (2) The remedies provided for in [sections 1 through  
2 18] are cumulative with other remedies provided by law.

3 NEW SECTION. Section 18. Underground storage tank  
4 license and permit account. (1) There is an underground  
5 storage tank license and permit account within the state  
6 special revenue fund established in 17-2-102.

7 (2) There must be paid into the account:

8 (a) revenues from permit, license, and inspection fees  
9 collected under [sections 1 through 18]; and

10 (b) revenues from penalties or damages collected under  
11 [sections 1 through 18].

12 (3) Appropriations may be made from the underground  
13 storage tank license and permit account only for the  
14 administration of the underground storage tank program.

15 NEW SECTION. Section 19. Appropriation. (1) There is  
16 appropriated as a loan from the general fund to the  
17 underground storage tank license and permit account \$50,000  
18 for the biennium ending June 30, 1991, for the  
19 administration of [sections 1 through 18] by the department  
20 of health and environmental sciences.

21 (2) The department shall use money from the  
22 underground storage tank license and permit account to repay  
23 over a 10-year period to the general fund the loan amount,  
24 plus interest at a rate equivalent to the previous fiscal  
25 year's average rate of return on the board of investments'

1 short-term interest pool.

2 NEW SECTION. **Section 20.** Exemption from sunrise and  
3 audit requirement. [This act] is exempt from the legislative  
4 audit committee report provided for in 2-8-203.

5 NEW SECTION. **Section 21.** Effective dates. (1)  
6 [Sections 4, 20, and this section] are effective on passage  
7 and approval.

8 (2) [Section 19] is effective July 1, 1989.

9 (3) [Sections 1 through 3 and 5 through 18] are  
10 effective April 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB552, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

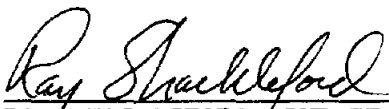
This legislation, "An Act to provide for licensing of installers of underground storage tanks; for permitting of owners or operators for installations and closures of underground storage tanks and for inspection during tank installations or closures; creating an underground storage tank special revenue fund; and providing effective dates," requires individuals who install, repair, retrofit, or close underground storage tank (UST) systems to be licensed by the state with exceptions. It also allows for fees to be assessed for licensing, permits and inspections of underground storage tanks.

ASSUMPTIONS:

This program will be administered by DHES through the UST program which is 75% federally funded. There is 1/4 of a grade 14 FTE associated with this legislation. The revenue from the fees is to defray the costs for running the program.

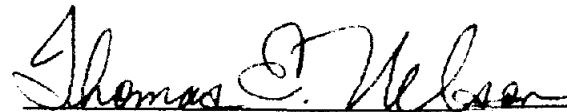
The following assumptions are made based on other states' installer licensing programs:

1. 100 individuals taking the installer licensing test in FY90 and FY91. The expected pass rate is 90% (the people taking the test are experienced installers). The following is a cost breakdown for the licensing test.
  - a.) Test cost to the individual \$50.00 each.
  - b.) Study guide cost to the individual will cover the cost of printing and mailing. Assuming half of the applicants will request the study guide at \$45.00 a piece.
  - c.) License and renewal cost to the individual \$20.00 per year.
  - d.) Cost of a training session to the program \$5,000.
  - e.) Cost of printing and mailing licenses \$15.00 each.
2. 175 installation permits for UST systems issued (75 in FY90, 100 in FY91). Each installation includes three tanks taking three days for installation.
  - a.) Permit cost per installation \$200.00.
  - b.) Inspection fee for use of non-licensed installer on the installation \$100.00 per day.
  - c.) Up to 80% of the permit and inspection fee may be returned to local authorities which have been designated inspecting agencies.



RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE: 2/10/89



THOMAS E. NELSON, PRIMARY SPONSOR

DATE 2-13-89

Fiscal Note for HB552, as introduced

**HB 552**

Fiscal Note Request, HB552 as introduced  
Form BD-1'  
Page 2

Fund Impact:

All monies will be placed into a special revenue fund set up by this legislation. All bills for costs incurred by this legislation will be paid from the fund.

	Current	<u>FY90</u> Proposed		Current	<u>FY91</u> Proposed	
	Law	Law	Difference	Law	Law	Difference
<u>Revenue:</u>	\$ -0-	\$34,550	\$34,550	\$ -0-	\$38,650	\$38,650
<u>Expenditures:</u>	-0-	34,550	34,550	-0-	38,650	38,650
<u>Net Effect:</u>	-0-	-0-	-0-	-0-	-0-	-0-

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

The local authorities which have been designated inspecting agencies may receive up to 80% of the permit and inspection fee for the installations which occur in their jurisdiction. These monies will be used to defray the costs to locals for inspections and permits.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

This legislation will improve the quality of the underground storage tank installations, repairs, retrofits and closures. Individuals who perform this type of work will have a standard basic knowledge of the regulations and performance standards. Tank owners will have some assurance that the installer will know the proper way to do the work. Non-compliance penalties should help improve installation quality. Installations self-certified by licensed installers should reduce the regulatory workload on governmental inspectors.

An underground storage tank which has been properly installed and maintained is less likely to have problems. Faulty installation often results in leaks. These leaking systems may contaminate groundwater, cause vapor problems in buildings which may result in explosion and endanger public health.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

There is no present state legislation in effect which governs the licensing of underground storage tank installers or requires permitting of underground storage tank work.

HB 552

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 552

INTRODUCED BY T. NELSON, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR LICENSING OF UNDERGROUND STORAGE TANK INSTALLERS; TO PROVIDE FOR PERMITTING OF INSTALLATIONS AND CLOSURES OF UNDERGROUND STORAGE TANKS; TO PROVIDE FOR INSPECTIONS DURING TANK INSTALLATIONS OR CLOSURES; TO AUTHORIZE FEES FOR LICENSES, PERMITS, AND INSPECTIONS; TO CREATE AN UNDERGROUND STORAGE TANK LICENSE AND PERMIT ACCOUNT; TO LOAN \$50,000 FROM THE GENERAL FUND TO THE ACCOUNT; TO APPROPRIATE \$50,000 FROM THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE LICENSING, PERMITTING, AND INSPECTION PROGRAM; TO PROVIDE AN EXEMPTION FROM THE SUNRISE AUDIT REQUIREMENT; AND PROVIDING EFFECTIVE DATES."

## STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules necessary to govern the installation and closure of underground storage tanks, including rules governing:

- (1) permits for installations and closures;
- (2) licenses and requirements for tank installers;
- (3) inspections and inspectors;
- (4) fees for licenses, permits, and inspections; and

(5) distribution of funds to local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1 through 18] may be cited as the "Montana Underground Storage Tank Installer Licensing and Permitting Act".

NEW SECTION. **Section 2.** Findings and purpose. (1) Leaking underground storage tanks have been identified as a significant source of underground contamination and as a potential hazard for fire and explosion. Government and industry studies show that a major cause of leaking underground storage tanks is improper installation or closure. Proper installation or closure requires specialized knowledge, training, and experience.

(2) To protect the health of Montana citizens and the quality of state waters and other natural resources, it is the intent of the legislature to require permits for the installation or closure of underground storage tanks; to limit the conduct of these activities to persons with demonstrated competence, training, and experience; and to assess fees to support state and local administration of permitting, licensing, and inspection activities.

NEW SECTION. **Section 3.** Definitions. As used in [sections 1 through 18], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Closure" or "to close" means the process of properly removing or filling in place an underground storage tank that is no longer in service.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) (a) "Installation" or "to install" means the placement of an underground storage tank, including excavation, tank placement, backfilling, and piping of underground portions of the underground storage tank that store or convey regulated substances. Installation also includes repair or modification of an underground storage tank through such means as tank relining or the repair or replacement of valves, fillpipes, piping, vents, or in-tank liquid-level monitoring systems.

(b) The terms do not include:

(i) the process of conducting a precision (tightness) test to establish the integrity of the underground storage tank;

(ii) the installation of a leak detection device that is external to and not attached to the underground storage tank; or

(iii) the installation and maintenance of a cathodic

protection system.

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(6) "License" means a license issued by the department under [section 6] to conduct the installation or closure of underground storage tanks.

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(9) "Owner" means a person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances.

(10) "Person" means an individual, firm, trust, estate, partnership, company, association, corporation (whether organized for profit or not), city, town, local governmental entity, or any other governmental or private entity.

(11) "Regulated substance" means a regulated substance as defined in 75-10-403.

(12) "Underground storage tank" means an underground storage tank as defined in 75-10-403.

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1 closure of underground storage tanks. Rules may include but  
2 are not limited to the following:

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4 modification, suspension, and revocation of permits for the  
5 installation and closure of underground storage tanks;

6 (2) the requirements for issuance, denial, renewal,  
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8 underground storage tank installers;

9 (3) the requirements for examination and training of  
10 underground storage tank installers;

11 (4) the requirements for qualifications of inspectors,  
12 use of inspectors, and methods for conducting an inspection;

13 (5) a schedule of fees for obtaining licenses and  
14 license renewals by underground storage tank installers;

15 (6) a schedule of fees for the review of applications  
16 for underground storage tank permits;

17 (7) a schedule of fees for inspection of installations  
18 or closures; and

19 (8) the mechanism for remittance of inspection or  
20 permitting fees to local governments.

21 NEW SECTION. Section 5. Permits -- requirement for  
22 licensed installer. (1) An owner or operator of an  
23 underground storage tank may not install or close, or cause  
24 to be installed or closed, an underground storage tank  
25 without a permit issued by the department as provided in

1 [section 8].

2 (2) In addition to obtaining a permit, an owner or  
3 operator shall obtain the services of a licensed installer  
4 for the installation or closure of an underground storage  
5 tank unless the installation or closure is:

6 (a) inspected by a department inspector or a  
7 designated local inspector as provided in [section 9]; or

8 (b) exempt from the requirement for a licensed  
9 installer, as provided in [section 10].

10 NEW SECTION. Section 6. Licensing -- interim licenses  
11 -- regular licenses. (1) An installer may not install or  
12 close an underground storage tank unless he has a valid  
13 license issued by the department.

14 (2) From April 1, 1990, through September 30, 1990,  
15 the department shall grant an installer an interim license  
16 if the installer submits, on a form supplied by the  
17 department, information demonstrating competency and  
18 experience in the installation and closure of underground  
19 storage tanks. All interim licenses expire on October 1,  
20 1990.

21 (3) The department shall grant an installer a regular  
22 license, beginning October 1, 1990, if the installer  
23 demonstrates competency and experience in the installation  
24 and closure of underground storage tanks, passes a written  
25 examination conducted by the department, and pays the



1 license fee established by department rule.

2 (4) The department shall conduct written examinations  
3 for the purpose of qualifying individuals to receive an  
4 underground storage tank installer license. The department  
5 shall determine the times and locations of the examinations  
6 and shall provide public notice of the examinations.

7 (5) An underground storage tank installer license is  
8 valid for a period not to exceed 3 years and is subject to  
9 periodic renewal as prescribed by department rule.

10 (6) As a condition of renewal, the department may  
11 require that an installer demonstrate continuing competency  
12 in the installation and closure of tanks.

13 (7) An installer need not be a Montana resident to  
14 qualify for a license.

15 NEW SECTION. Section 7. Denial, modification,  
16 suspension, or revocation of license -- grounds. (1) The  
17 department may deny, modify, condition, suspend, or revoke a  
18 license if the installer:

19 (a) fails to achieve a passing grade on a written  
20 examination;

21 (b) fails to pay a license fee;

22 (c) commits fraud or deceit with respect to the  
23 license application;

24 (d) has had a similar license suspended or revoked in  
25 another state or territory; or

1 (e) violates any state or federal law, rule, permit,  
2 or order relating to the installation or closure of an  
3 underground storage tank.

4 (2) If the department modifies, conditions, suspends,  
5 or revokes a license, it shall inform the applicant or  
6 license holder in writing of the reason for the action. The  
7 installer may request a hearing before the board. If the  
8 board grants a hearing, the hearing must be held in  
9 accordance with the provisions of the Montana Administrative  
10 Procedure Act.

11 NEW SECTION. Section 8. Permits -- application  
12 procedure -- issuance. (1) Before the installation or  
13 closure of an underground storage tank, the owner or  
14 operator shall file a permit application with the department  
15 on forms provided by the department. The time between the  
16 filing of a permit application with the department and the  
17 installation or closure may be provided by department rule.  
18 The department may provide by rule for emergency permits to  
19 apply to emergency conditions pertaining to the installation  
20 or closure of underground storage tanks.

21 (2) The permit application must, at a minimum, require  
22 the owner or operator to provide information concerning:

23 (a) the date of the tank installation or closure;

24 (b) the location of the tank installation or closure;

25 (c) the type of construction of the tank;

(d) the contents of the tank being closed or the anticipated contents of the tank being installed; and

(e) the name of the licensed installer who will be installing or closing the underground storage tank or, if the owner or operator is not going to have the underground storage tank installed or closed by a licensed installer, the estimated date for inspection by the department.

(3) After receipt of a completed application that meets the requirements of this section and any rules adopted under [section 4(1)], the department shall issue the permit.

**NEW SECTION. Section 9. Inspection of installations and closures -- fee.** (1) After being issued a permit, an owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed installer. The owner or operator shall provide timely notice to the department of the date and location of the underground storage tank installation or closure and shall establish with the department the time when an inspection may be conducted.

(2) An owner or operator may conduct an installation or closure under this section only if an inspector is present.

(3) An inspection fee must be paid by the owner or operator to the department to cover the costs associated with an inspection. The inspection is not considered

complete until the owner or operator pays the fee.

(4) Department officials or local government officers, such as local health officers, sanitarians, local fire chiefs, or other persons designated or hired by the department, shall conduct inspections on behalf of the department.

(5) The department shall pay the person conducting an inspection on the department's behalf, as provided in subsection (4), from the underground storage tank license and permit account established in [section 18] up to 80% of any fee collected by the department for the inspection. When an inspection is conducted by an officer of a county or city, the payment must be made by the department to the appropriate county or city treasurer. A county or city shall use payments received under this section only for costs incurred in conducting inspections under this section.

(6) A copy of an installation inspection report must be kept on file by the owner or operator for as long as the department may require by rule. A copy of a closure inspection report must be kept by the owner or operator for 3 years after the date of closure.

(7) The department may enter and inspect the premises or any appurtenant property of an owner or operator at any time to ensure compliance with laws or rules pertaining to underground storage tanks.

**NEW SECTION. Section 10. Exemption.** The owner or operator of a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank used for storing heating oil for consumptive use on the premises where stored shall obtain a permit for the installation or closure of the tank but is not required to obtain the services of a licensed installer.

**NEW SECTION. Section 11. Administrative enforcement.**

(1) When the department believes that a person has violated [sections 1 through 18], a rule adopted thereunder, or a permit provision, it may serve written notice of the violation on the person or his agent. The notice must specify the alleged violation and the facts that constitute the alleged violation. The notice may include an order to provide information pertaining to the installation or closure or an order to take necessary corrective action within a reasonable time as stated in the order. The notice and order may be signed and served by a department inspector if it is personally given to the person or to his agent. Every other notice and order must be signed by the director of the department or his deputy and must be served by certified mail upon the person or his agent. The order becomes final unless, within 30 days after the notice is served, the person requests in writing a hearing before the

board. On receipt of the request, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

(2) If, pursuant to a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or modify the department's order. An order issued by the department or the board may prescribe the date by which the violation must cease and may prescribe time limits for particular action. If, after a hearing, the board finds that no violation has occurred, it shall rescind the department's order.

(3) Instead of issuing an order pursuant to subsection (1), the department may either:

(a) require the alleged violator to appear before the board for a hearing at a time and place specified in the notice and answer the charges described in the notice of violation; or

(b) initiate action under [section 12, 14, or 15].

(4) This section does not prevent the board or department from attempting to obtain voluntary compliance through issuance of a warning, a conference, or any other appropriate administrative or judicial means.

**NEW SECTION. Section 12. Injunctions.** The department may institute and maintain in the name of the state actions for injunctive relief as provided in Title 27, chapter 19,

1 to:

2 (1) immediately restrain any person from engaging in  
3 unauthorized activity that is endangering public health or  
4 causing damage to the environment;

5 (2) enjoin a violation of [sections 1 through 18], a  
6 rule adopted under [sections 1 through 18], or an order of  
7 the department or the board; or

8 (3) require compliance with [sections 1 through 18], a  
9 rule adopted under [sections 1 through 18], or an order of  
10 the department or the board.

11 NEW SECTION. Section 13. Imminent hazard. Upon  
12 receipt of evidence that the installation or closure of an  
13 underground storage tank may present an imminent and  
14 substantial danger to public health or the environment, the  
15 department may commence administrative or judicial  
16 proceedings to immediately abate the danger or to restrain,  
17 order, or enjoin any person from causing the danger. The  
18 department may take other judicial or administrative action  
19 as may be necessary.

20 NEW SECTION. Section 14. Civil penalties. (1) Any  
21 person who violates any provision of [sections 1 through  
22 18], a rule adopted under [sections 1 through 18], or an  
23 order of the department or the board is subject to a civil  
24 penalty not to exceed \$10,000 per violation. Each day of  
25 violation of [sections 1 through 18], a rule adopted under

1 [sections 1 through 18], or an order constitutes a separate  
2 violation.

3 (2) The department may institute and maintain in the  
4 name of the state any enforcement proceedings under this  
5 section. Upon request of the department, the attorney  
6 general or the county attorney of the county where the  
7 violation occurred shall petition the district court to  
8 impose, assess, and recover the civil penalty.

9 (3) Action under this section does not bar:

10 (a) enforcement of [sections 1 through 18], rules  
11 adopted under [sections 1 through 18], orders of the  
12 department or the board, or terms of a license or permit by  
13 injunction or other appropriate remedy; or

14 (b) action under [section 15].

15 NEW SECTION. Section 15. Criminal penalties. (1) Any  
16 owner or operator who knowingly installs or closes an  
17 underground storage tank without a permit and either an  
18 inspection or the use of the services of a licensed  
19 installer as required in [section 5]; any installer who  
20 knowingly installs or closes an underground storage tank  
21 without being licensed; or any person who knowingly makes  
22 any false statements or representations in any application,  
23 permit, report, licensing form, or other document filed or  
24 maintained as required by [sections 1 through 18] or  
25 required by rules adopted under [sections 1 through 18] is

1 subject to a fine not to exceed \$10,000 for each violation  
2 or imprisonment not to exceed 6 months, or both. Each day of  
3 violation constitutes a separate violation.

4 (2) A person convicted of a second or subsequent  
5 criminal violation is subject to a fine not to exceed  
6 \$20,000 for each violation or imprisonment not to exceed 1  
7 year, or both. Each day of violation constitutes a separate  
8 violation.

9 (3) Action under this section does not bar enforcement  
10 of [sections 1 through 18], rules adopted under [sections 1  
11 through 18], orders of the department or the board, or terms  
12 of a license or permit by injunction or other appropriate  
13 remedy.

14 NEW SECTION. Section 16. Compliance with other laws  
15 --limitation on local ordinances. (1) Nothing in [sections 1  
16 through 18] limits or alters the responsibility of an owner,  
17 operator, or installer to comply with all other state laws  
18 or rules.

19 (2) Ordinances adopted by local government units  
20 requiring installation or closure permits or licensed  
21 installers, or both, may be no less stringent than the  
22 requirements of [sections 1 through 18].

23 NEW SECTION. Section 17. Application of other law.  
24 (1) The provisions of [sections 1 through 18] and rules  
25 adopted under [sections 1 through 18] govern if they

1 conflict with other provisions of Montana law or any action  
2 taken by the department under the other provisions of law.

3 (2) The remedies provided for in [sections 1 through  
4 18] are cumulative with other remedies provided by law.

5 NEW SECTION. Section 18. Underground storage tank  
6 license and permit account. (1) There is an underground  
7 storage tank license and permit account within the state  
8 special revenue fund established in 17-2-102.

9 (2) There must be paid into the account:

10 (a) revenues from permit, license, and inspection fees  
11 collected under [sections 1 through 18]; and

12 (b) revenues from penalties or damages collected under  
13 [sections 1 through 18].

14 (3) Appropriations may be made from the underground  
15 storage tank license and permit account only for the  
16 administration of the underground storage tank program.

17 NEW SECTION. Section 19. Appropriation. (1) (A) There  
18 is appropriated as a loan from the general fund to the  
19 underground storage tank license and permit account \$50,000  
20 for the biennium ending June 30, 1991.

21 (B) THERE IS APPROPRIATED \$50,000 FROM THE ACCOUNT TO  
22 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES for the  
23 administration of [sections 1 through 18] ~~by the department~~  
24 ~~of health and environmental sciences.~~

25 (2) The department shall use money from the

1 underground storage tank license and permit account to repay  
2 over a 10-year period to the general fund the loan amount,  
3 plus interest at a rate equivalent to the previous fiscal  
4 year's average rate of return on the board of investments'  
5 short-term interest pool.

6 NEW SECTION. **Section 20.** Exemption from sunrise and  
7 audit requirement. [This act] is exempt from the legislative  
8 audit committee report provided for in 2-8-203.

9 NEW SECTION. **Section 21.** Effective dates. (1)  
10 [Sections 4, 20, and this section] are effective on passage  
11 and approval.

12 (2) ~~{Section-19}~~-is [SECTIONS 18 AND 19] ARE effective  
13 July 1, 1989.

14 (3) [Sections 1 through 3 and 5 through ~~18~~ 17] are  
15 effective April 1, 1990.

-End-

## 1 HOUSE BILL NO. 552

2 INTRODUCED BY T. NELSON, HARPER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
5 LICENSING OF UNDERGROUND STORAGE TANK INSTALLERS; TO PROVIDE  
6 FOR PERMITTING OF INSTALLATIONS AND CLOSURES OF UNDERGROUND  
7 STORAGE TANKS; TO PROVIDE FOR INSPECTIONS DURING TANK  
8 INSTALLATIONS OR CLOSURES; TO AUTHORIZE FEES FOR LICENSES,  
9 PERMITS, AND INSPECTIONS; TO CREATE AN UNDERGROUND STORAGE  
10 TANK LICENSE AND PERMIT ACCOUNT; TO LOAN \$50,000 FROM THE  
11 GENERAL FUND TO THE ACCOUNT; TO APPROPRIATE \$50,000 FROM THE  
12 ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
13 SCIENCES FOR THE LICENSING, PERMITTING, AND INSPECTION  
14 PROGRAM; TO PROVIDE AN EXEMPTION FROM THE SUNRISE AUDIT  
15 REQUIREMENT; AND PROVIDING EFFECTIVE DATES."

16  
17 STATEMENT OF INTENT

18 It is the intent of the legislature that the department  
19 of health and environmental sciences adopt rules necessary  
20 to govern the installation and closure of underground  
21 storage tanks, including rules governing:

- 22 (1) permits for installations and closures;  
23 (2) licenses and requirements for tank installers;  
24 (3) inspections and inspectors;  
25 (4) fees for licenses, permits, and inspections; and

1 (5) distribution of funds to local governments.

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 NEW SECTION. **Section 1.** Short title. [Sections 1  
5 through 18] may be cited as the "Montana Underground Storage  
6 Tank Installer Licensing and Permitting Act".

7 NEW SECTION. **Section 2.** Findings and purpose. (1)  
8 Leaking underground storage tanks have been identified as a  
9 significant source of underground contamination and as a  
10 potential hazard for fire and explosion. Government and  
11 industry studies show that a major cause of leaking  
12 underground storage tanks is improper installation or  
13 closure. Proper installation or closure requires  
14 specialized knowledge, training, and experience.

15 (2) To protect the health of Montana citizens and the  
16 quality of state waters and other natural resources, it is  
17 the intent of the legislature to require permits for the  
18 installation or closure of underground storage tanks; to  
19 limit the conduct of these activities to persons with  
20 demonstrated competence, training, and experience; and to  
21 assess fees to support state and local administration of  
22 permitting, licensing, and inspection activities.

23 NEW SECTION. **Section 3.** Definitions. As used in  
24 [sections 1 through 18], unless the context requires  
25 otherwise, the following definitions apply:

1 (1) "Board" means the board of health and  
2 environmental sciences provided for in 2-15-2104.

3 (2) "Closure" or "to close" means the process of  
4 properly removing or filling in place an underground storage  
5 tank that is no longer in service.

6 (3) "Department" means the department of health and  
7 environmental sciences provided for in Title 2, chapter 15,  
8 part 21.

9 (4) (a) "Installation" or "to install" means the  
10 placement of an underground storage tank, including  
11 excavation, tank placement, backfilling, and piping of  
12 underground portions of the underground storage tank that  
13 store or convey regulated substances. Installation also  
14 includes repair or modification of an underground storage  
15 tank through such means as tank relining or the repair or  
16 replacement of valves, fillpipes, piping, vents, or in-tank  
17 liquid-level monitoring systems.

18 (b) The terms do not include:

19 (i) the process of conducting a precision (tightness)  
20 test to establish the integrity of the underground storage  
21 tank;

22 (ii) the installation of a leak detection device that  
23 is external to and not attached to the underground storage  
24 tank; or

25 (iii) the installation and maintenance of a cathodic

1 protection system.

2 (5) "Installer" means an individual who is engaged in  
3 the business of installation or closure of underground  
4 storage tanks.

5 (6) "License" means a license issued by the department  
6 under [section 6] to conduct the installation or closure of  
7 underground storage tanks.

8 (7) "Licensed installer" means an individual who holds  
9 a valid underground storage tank installer license.

10 (8) "Operator" means a person in control of or having  
11 responsibility for the operation, maintenance, or management  
12 of an underground storage tank.

13 (9) "Owner" means a person who owns an underground  
14 storage tank used for the storage, use, or dispensing of  
15 regulated substances.

16 (10) "Person" means an individual, firm, trust, estate,  
17 partnership, company, association, corporation (whether  
18 organized for profit or not), city, town, local governmental  
19 entity, or any other governmental or private entity.

20 (11) "Regulated substance" means a regulated substance  
21 as defined in 75-10-403.

22 (12) "Underground storage tank" means an underground  
23 storage tank as defined in 75-10-403.

24 **NEW SECTION. Section 4.** Rulemaking authority. The  
25 department may adopt rules governing the installation and



1 closure of underground storage tanks. Rules may include but  
2 are not limited to the following:

3 (1) the requirements for issuance, denial, renewal,  
4 modification, suspension, and revocation of permits for the  
5 installation and closure of underground storage tanks;

6 (2) the requirements for issuance, denial, renewal,  
7 modification, suspension, and revocation of licenses for  
8 underground storage tank installers;

9 (3) the requirements for examination and training of  
10 underground storage tank installers;

11 (4) the requirements for qualifications of inspectors,  
12 use of inspectors, and methods for conducting an inspection;

13 (5) a schedule of fees for obtaining licenses and  
14 license renewals by underground storage tank installers;

15 (6) a schedule of fees for the review of applications  
16 for underground storage tank permits;

17 (7) a schedule of fees for inspection of installations  
18 or closures; and

19 (8) the mechanism for remittance of inspection or  
20 permitting fees to local governments.

21 NEW SECTION. Section 5. Permits -- requirement for  
22 licensed installer. (1) An owner or operator of an  
23 underground storage tank may not install or close, or cause  
24 to be installed or closed, an underground storage tank  
25 without a permit issued by the department as provided in

1 [section 8].

2 (2) In addition to obtaining a permit, an owner or  
3 operator shall obtain the services of a licensed installer  
4 for the installation or closure of an underground storage  
5 tank unless the installation or closure is:

6 (a) inspected by a department inspector or a  
7 designated local inspector as provided in [section 9]; or

8 (b) exempt from the requirement for a licensed  
9 installer, as provided in [section 10].

10 NEW SECTION. Section 6. Licensing -- interim licenses  
11 -- regular licenses. (1) An installer may not install or  
12 close an underground storage tank unless he has a valid  
13 license issued by the department.

14 (2) From April 1, 1990, through September 30, 1990,  
15 the department shall grant an installer an interim license  
16 if the installer submits, on a form supplied by the  
17 department, information demonstrating competency and  
18 experience in the installation and closure of underground  
19 storage tanks. All interim licenses expire on October 1,  
20 1990.

21 (3) The department shall grant an installer a regular  
22 license, beginning October 1, 1990, if the installer  
23 demonstrates competency and experience in the installation  
24 and closure of underground storage tanks, passes a written  
25 examination conducted by the department, and pays the

1 license fee established by department rule.

2 (4) The department shall conduct written examinations  
3 for the purpose of qualifying individuals to receive an  
4 underground storage tank installer license. The department  
5 shall determine the times and locations of the examinations  
6 and shall provide public notice of the examinations.

7 (5) An underground storage tank installer license is  
8 valid for a period not to exceed 3 years and is subject to  
9 periodic renewal as prescribed by department rule.

10 (6) As a condition of renewal, the department may  
11 require that an installer demonstrate continuing competency  
12 in the installation and closure of tanks.

13 (7) An installer need not be a Montana resident to  
14 qualify for a license.

15 NEW SECTION. Section 7. Denial, modification,  
16 suspension, or revocation of license -- grounds. (1) The  
17 department may deny, modify, condition, suspend, or revoke a  
18 license if the installer:

19 (a) fails to achieve a passing grade on a written  
20 examination;

21 (b) fails to pay a license fee;

22 (c) commits fraud or deceit with respect to the  
23 license application;

24 (d) has had a similar license suspended or revoked in  
25 another state or territory; or

1 (e) violates any state or federal law, rule, permit,  
2 or order relating to the installation or closure of an  
3 underground storage tank.

4 (2) If the department modifies, conditions, suspends,  
5 or revokes a license, it shall inform the applicant or  
6 license holder in writing of the reason for the action. The  
7 installer may request a hearing before the board. If the  
8 board grants a hearing, the hearing must be held in  
9 accordance with the provisions of the Montana Administrative  
10 Procedure Act.

11 NEW SECTION. Section 8. Permits -- application  
12 procedure -- issuance. (1) Before the installation or  
13 closure of an underground storage tank, the owner or  
14 operator shall file a permit application with the department  
15 on forms provided by the department. The time between the  
16 filing of a permit application with the department and the  
17 installation or closure may be provided by department rule.  
18 The department may provide by rule for emergency permits to  
19 apply to emergency conditions pertaining to the installation  
20 or closure of underground storage tanks.

21 (2) The permit application must, at a minimum, require  
22 the owner or operator to provide information concerning:

23 (a) the date of the tank installation or closure;

24 (b) the location of the tank installation or closure;

25 (c) the type of construction of the tank;

(d) the contents of the tank being closed or the anticipated contents of the tank being installed; and

(e) the name of the licensed installer who will be installing or closing the underground storage tank or, if the owner or operator is not going to have the underground storage tank installed or closed by a licensed installer, the estimated date for inspection by the department.

(3) After receipt of a completed application that meets the requirements of this section and any rules adopted under [section 4(1)], the department shall issue the permit.

**NEW SECTION. Section 9. Inspection of installations and closures -- fee.** (1) After being issued a permit, an owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed installer. The owner or operator shall provide timely notice to the department of the date and location of the underground storage tank installation or closure and shall establish with the department the time when an inspection may be conducted.

(2) An owner or operator may conduct an installation or closure under this section only if an inspector is present.

(3) An inspection fee must be paid by the owner or operator to the department to cover the costs associated with an inspection. The inspection is not considered

complete until the owner or operator pays the fee.

(4) Department officials or local government officers, such as local health officers, sanitarians, local fire chiefs, or other persons designated or hired by the department, shall conduct inspections on behalf of the department.

(5) The department shall pay the person conducting an inspection on the department's behalf, as provided in subsection (4), from the underground storage tank license and permit account established in [section 18] up to 80% of any fee collected by the department for the inspection. When an inspection is conducted by an officer of a county or city, the payment must be made by the department to the appropriate county or city treasurer. A county or city shall use payments received under this section only for costs incurred in conducting inspections under this section.

(6) A copy of an installation inspection report must be kept on file by the owner or operator for as long as the department may require by rule. A copy of a closure inspection report must be kept by the owner or operator for 3 years after the date of closure.

(7) The department may enter and inspect the premises or any appurtenant property of an owner or operator at any time to ensure compliance with laws or rules pertaining to underground storage tanks.

1        **NEW SECTION. Section 10. Exemption.** The owner or  
 2 operator of a farm or residential tank with a capacity of  
 3 1,100 gallons or less that is used for storing motor fuel  
 4 for noncommercial purposes or a tank used for storing  
 5 heating oil for consumptive use on the premises where stored  
 6 shall obtain a permit for the installation or closure of the  
 7 tank but is not required to obtain the services of a  
 8 licensed installer.

9        **NEW SECTION. Section 11. Administrative enforcement.**  
 10 (1) When the department believes that a person has violated  
 11 [sections 1 through 18], a rule adopted thereunder, or a  
 12 permit provision, it may serve written notice of the  
 13 violation on the person or his agent. The notice must  
 14 specify the alleged violation and the facts that constitute  
 15 the alleged violation. The notice may include an order to  
 16 provide information pertaining to the installation or  
 17 closure or an order to take necessary corrective action  
 18 within a reasonable time as stated in the order. The notice  
 19 and order may be signed and served by a department inspector  
 20 if it is personally given to the person or to his agent.  
 21 Every other notice and order must be signed by the director  
 22 of the department or his deputy and must be served by  
 23 certified mail upon the person or his agent. The order  
 24 becomes final unless, within 30 days after the notice is  
 25 served, the person requests in writing a hearing before the

1 board. On receipt of the request, the board shall schedule a  
 2 hearing. Service by mail is complete on the date of  
 3 mailing.

4        (2) If, pursuant to a hearing held under subsection  
 5 (1), the board finds that a violation has occurred, it shall  
 6 either affirm or modify the department's order. An order  
 7 issued by the department or the board may prescribe the date  
 8 by which the violation must cease and may prescribe time  
 9 limits for particular action. If, after a hearing, the board  
 10 finds that no violation has occurred, it shall rescind the  
 11 department's order.

12        (3) Instead of issuing an order pursuant to subsection  
 13 (1), the department may either:

14        (a) require the alleged violator to appear before the  
 15 board for a hearing at a time and place specified in the  
 16 notice and answer the charges described in the notice of  
 17 violation; or

18        (b) initiate action under [section 12, 14, or 15].

19        (4) This section does not prevent the board or  
 20 department from attempting to obtain voluntary compliance  
 21 through issuance of a warning, a conference, or any other  
 22 appropriate administrative or judicial means.

23        **NEW SECTION. Section 12. Injunctions.** The department  
 24 may institute and maintain in the name of the state actions  
 25 for injunctive relief as provided in Title 27, chapter 19,

1 to:

2 (1) immediately restrain any person from engaging in  
3 unauthorized activity that is endangering public health or  
4 causing damage to the environment;

5 (2) enjoin a violation of [sections 1 through 18], a  
6 rule adopted under [sections 1 through 18], or an order of  
7 the department or the board; or

8 (3) require compliance with [sections 1 through 18], a  
9 rule adopted under [sections 1 through 18], or an order of  
10 the department or the board.

11 NEW SECTION. Section 13. Imminent hazard. Upon  
12 receipt of evidence that the installation or closure of an  
13 underground storage tank may present an imminent and  
14 substantial danger to public health or the environment, the  
15 department may commence administrative or judicial  
16 proceedings to immediately abate the danger or to restrain,  
17 order, or enjoin any person from causing the danger. The  
18 department may take other judicial or administrative action  
19 as may be necessary.

20 NEW SECTION. Section 14. Civil penalties. (1) Any  
21 person who violates any provision of [sections 1 through  
22 18], a rule adopted under [sections 1 through 18], or an  
23 order of the department or the board is subject to a civil  
24 penalty not to exceed \$10,000 per violation. Each day of  
25 violation of [sections 1 through 18], a rule adopted under

1 [sections 1 through 18], or an order constitutes a separate  
2 violation.

3 (2) The department may institute and maintain in the  
4 name of the state any enforcement proceedings under this  
5 section. Upon request of the department, the attorney  
6 general or the county attorney of the county where the  
7 violation occurred shall petition the district court to  
8 impose, assess, and recover the civil penalty.

9 (3) Action under this section does not bar:

10 (a) enforcement of [sections 1 through 18], rules  
11 adopted under [sections 1 through 18], orders of the  
12 department or the board, or terms of a license or permit by  
13 injunction or other appropriate remedy; or

14 (b) action under [section 15].

15 NEW SECTION. Section 15. Criminal penalties. (1) Any  
16 owner or operator who knowingly installs or closes an  
17 underground storage tank without a permit and either an  
18 inspection or the use of the services of a licensed  
19 installer as required in [section 5]; any installer who  
20 knowingly installs or closes an underground storage tank  
21 without being licensed; or any person who knowingly makes  
22 any false statements or representations in any application,  
23 permit, report, licensing form, or other document filed or  
24 maintained as required by [sections 1 through 18] or  
25 required by rules adopted under [sections 1 through 18] is

1 subject to a fine not to exceed \$10,000 for each violation  
2 or imprisonment not to exceed 6 months, or both. Each day of  
3 violation constitutes a separate violation.

4 (2) A person convicted of a second or subsequent  
5 criminal violation is subject to a fine not to exceed  
6 \$20,000 for each violation or imprisonment not to exceed 1  
7 year, or both. Each day of violation constitutes a separate  
8 violation.

9 (3) Action under this section does not bar enforcement  
10 of [sections 1 through 18], rules adopted under [sections 1  
11 through 18], orders of the department or the board, or terms  
12 of a license or permit by injunction or other appropriate  
13 remedy.

14 NEW SECTION. Section 16. Compliance with other laws  
15 --limitation on local ordinances. (1) Nothing in [sections 1  
16 through 18] limits or alters the responsibility of an owner,  
17 operator, or installer to comply with all other state laws  
18 or rules.

19 (2) Ordinances adopted by local government units  
20 requiring installation or closure permits or licensed  
21 installers, or both, may be no less stringent than the  
22 requirements of [sections 1 through 18].

23 NEW SECTION. Section 17. Application of other law.  
24 (1) The provisions of [sections 1 through 18] and rules  
25 adopted under [sections 1 through 18] govern if they

1 conflict with other provisions of Montana law or any action  
2 taken by the department under the other provisions of law.

3 (2) The remedies provided for in [sections 1 through  
4 18] are cumulative with other remedies provided by law.

5 NEW SECTION. Section 18. Underground storage tank  
6 license and permit account. (1) There is an underground  
7 storage tank license and permit account within the state  
8 special revenue fund established in 17-2-102.

9 (2) There must be paid into the account:

10 (a) revenues from permit, license, and inspection fees  
11 collected under [sections 1 through 18]; and

12 (b) revenues from penalties or damages collected under  
13 [sections 1 through 18].

14 (3) Appropriations may be made from the underground  
15 storage tank license and permit account only for the  
16 administration of the underground storage tank program.

17 NEW SECTION. Section 19. Appropriation. (1) (A) There  
18 is appropriated as a loan from the general fund to the  
19 underground storage tank license and permit account \$50,000  
20 for the biennium ending June 30, 1991.

21 (B) THERE IS APPROPRIATED \$50,000 FROM THE ACCOUNT TO  
22 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES for the  
23 administration of [sections 1 through 18] ~~by the department~~  
24 ~~of health and environmental sciences.~~

25 (2) The department shall use money from the

1 underground storage tank license and permit account to repay  
2 over a 10-year period to the general fund the loan amount,  
3 plus interest at a rate equivalent to the previous fiscal  
4 year's average rate of return on the board of investments'  
5 short-term interest pool.

6 NEW SECTION. Section 20. Exemption from sunrise and  
7 audit requirement. [This act] is exempt from the legislative  
8 audit committee report provided for in 2-8-203.

9 NEW SECTION. Section 21. Effective dates. (1)  
10 [Sections 4, 20, and this section] are effective on passage  
11 and approval.

12 (2) ~~{Section-19}-is~~ [SECTIONS 18 AND 19] ARE effective  
13 July 1, 1989.

14 (3) [Sections 1 through 3 and 5 through ~~18~~ 17] are  
15 effective April 1, 1990.

-End-

## HOUSE BILL NO. 552

INTRODUCED BY T. NELSON, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR LICENSING OF UNDERGROUND STORAGE TANK INSTALLERS; TO PROVIDE FOR PERMITTING OF INSTALLATIONS AND CLOSURES OF UNDERGROUND STORAGE TANKS; TO PROVIDE FOR INSPECTIONS DURING TANK INSTALLATIONS OR CLOSURES; TO AUTHORIZE FEES FOR LICENSES, PERMITS, AND INSPECTIONS; TO CREATE AN UNDERGROUND STORAGE TANK LICENSE AND PERMIT ACCOUNT; TO LOAN \$50,000 FROM THE GENERAL FUND TO THE ACCOUNT; TO APPROPRIATE \$50,000 FROM THE ACCOUNT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR THE LICENSING, PERMITTING, AND INSPECTION PROGRAM; TO PROVIDE AN EXEMPTION FROM THE SUNRISE AUDIT REQUIREMENT; AND PROVIDING EFFECTIVE DATES."

## STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules necessary to govern the installation and closure of underground storage tanks, including rules governing:

- (1) permits for installations and closures;
- (2) licenses and requirements for tank installers;
- (3) inspections and inspectors;
- (4) fees for licenses, permits, and inspections; and

(5) distribution of funds to local governments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 18] may be cited as the "Montana Underground Storage Tank Installer Licensing and Permitting Act".

NEW SECTION. Section 2. Findings and purpose. (1) Leaking underground storage tanks have been identified as a significant source of underground contamination and as a potential hazard for fire and explosion. Government and industry studies show that a major cause of leaking underground storage tanks is improper installation or closure. Proper installation or closure requires specialized knowledge, training, and experience.

(2) To protect the health of Montana citizens and the quality of state waters and other natural resources, it is the intent of the legislature to require permits for the installation or closure of underground storage tanks; to limit the conduct of these activities to persons with demonstrated competence, training, and experience; and to assess fees to support state and local administration of permitting, licensing, and inspection activities.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 18], unless the context requires otherwise, the following definitions apply:



(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Closure" or "to close" means the process of properly removing or filling in place an underground storage tank that is no longer in service.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) (a) "Installation" or "to install" means the placement of an underground storage tank, including excavation, tank placement, backfilling, and piping of underground portions of the underground storage tank that store or convey regulated substances. Installation also includes repair or modification of an underground storage tank through such means as tank relining or the repair or replacement of valves, fillpipes, piping, vents, or in-tank liquid-level monitoring systems.

(b) The terms do not include:

(i) the process of conducting a precision (tightness) test to establish the integrity of the underground storage tank;

(ii) the installation of a leak detection device that is external to and not attached to the underground storage tank; or

(iii) the installation and maintenance of a cathodic

protection system.

(5) "Installer" means an individual who is engaged in the business of installation or closure of underground storage tanks.

(6) "License" means a license issued by the department under [section 6] to conduct the installation or closure of underground storage tanks.

(7) "Licensed installer" means an individual who holds a valid underground storage tank installer license.

(8) "Operator" means a person in control of or having responsibility for the operation, maintenance, or management of an underground storage tank.

(9) "Owner" means a person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances.

(10) "Person" means an individual, firm, trust, estate, partnership, company, association, corporation (whether organized for profit or not), city, town, local governmental entity, or any other governmental or private entity.

(11) "Regulated substance" means a regulated substance as defined in 75-10-403.

(12) "Underground storage tank" means an underground storage tank as defined in 75-10-403.

**NEW SECTION. Section 4. Rulemaking authority.** The department may adopt rules governing the installation and

closure of underground storage tanks. Rules may include but are not limited to the following:

(1) the requirements for issuance, denial, renewal, modification, suspension, and revocation of permits for the installation and closure of underground storage tanks;

(2) the requirements for issuance, denial, renewal, modification, suspension, and revocation of licenses for underground storage tank installers;

(3) the requirements for examination and training of underground storage tank installers;

(4) the requirements for qualifications of inspectors, use of inspectors, and methods for conducting an inspection;

(5) a schedule of fees for obtaining licenses and license renewals by underground storage tank installers;

(6) a schedule of fees for the review of applications for underground storage tank permits;

(7) a schedule of fees for inspection of installations or closures; and

(8) the mechanism for remittance of inspection or permitting fees to local governments.

**NEW SECTION. Section 5. Permits -- requirement for licensed installer.** (1) An owner or operator of an underground storage tank may not install or close, or cause to be installed or closed, an underground storage tank without a permit issued by the department as provided in

{section 8}.

(2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed installer for the installation or closure of an underground storage tank unless the installation or closure is:

(a) inspected by a department inspector or a designated local inspector as provided in {section 9}; or

(b) exempt from the requirement for a licensed installer, as provided in {section 10}.

**NEW SECTION. Section 6. Licensing -- interim licenses -- regular licenses.** (1) An installer may not install or close an underground storage tank unless he has a valid license issued by the department.

(2) From April 1, 1990, through September 30, 1990, the department shall grant an installer an interim license if the installer submits, on a form supplied by the department, information demonstrating competency and experience in the installation and closure of underground storage tanks. All interim licenses expire on October 1, 1990.

(3) The department shall grant an installer a regular license, beginning October 1, 1990, if the installer demonstrates competency and experience in the installation and closure of underground storage tanks, passes a written examination conducted by the department, and pays the

1 license fee established by department rule.

2 (4) The department shall conduct written examinations  
3 for the purpose of qualifying individuals to receive an  
4 underground storage tank installer license. The department  
5 shall determine the times and locations of the examinations  
6 and shall provide public notice of the examinations.

7 (5) An underground storage tank installer license is  
8 valid for a period not to exceed 3 years and is subject to  
9 periodic renewal as prescribed by department rule.

10 (6) As a condition of renewal, the department may  
11 require that an installer demonstrate continuing competency  
12 in the installation and closure of tanks.

13 (7) An installer need not be a Montana resident to  
14 qualify for a license.

15 NEW SECTION. Section 7. Denial, modification,  
16 suspension, or revocation of license -- grounds. (1) The  
17 department may deny, modify, condition, suspend, or revoke a  
18 license if the installer:

19 (a) fails to achieve a passing grade on a written  
20 examination;

21 (b) fails to pay a license fee;

22 (c) commits fraud or deceit with respect to the  
23 license application;

24 (d) has had a similar license suspended or revoked in  
25 another state or territory; or

1 (e) violates any state or federal law, rule, permit,  
2 or order relating to the installation or closure of an  
3 underground storage tank.

4 (2) If the department modifies, conditions, suspends,  
5 or revokes a license, it shall inform the applicant or  
6 license holder in writing of the reason for the action. The  
7 installer may request a hearing before the board. If the  
8 board grants a hearing, the hearing must be held in  
9 accordance with the provisions of the Montana Administrative  
10 Procedure Act.

11 NEW SECTION. Section 8. Permits -- application  
12 procedure -- issuance. (1) Before the installation or  
13 closure of an underground storage tank, the owner or  
14 operator shall file a permit application with the department  
15 on forms provided by the department. The time between the  
16 filing of a permit application with the department and the  
17 installation or closure may be provided by department rule.  
18 The department may provide by rule for emergency permits to  
19 apply to emergency conditions pertaining to the installation  
20 or closure of underground storage tanks.

21 (2) The permit application must, at a minimum, require  
22 the owner or operator to provide information concerning:

23 (a) the date of the tank installation or closure;

24 (b) the location of the tank installation or closure;

25 (c) the type of construction of the tank;

(d) the contents of the tank being closed or the anticipated contents of the tank being installed; and

(e) the name of the licensed installer who will be installing or closing the underground storage tank or, if the owner or operator is not going to have the underground storage tank installed or closed by a licensed installer, the estimated date for inspection by the department.

(3) After receipt of a completed application that meets the requirements of this section and any rules adopted under [section 4(1)], the department shall issue the permit.

**NEW SECTION. Section 9. Inspection of installations and closures -- fee.** (1) After being issued a permit, an owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed installer. The owner or operator shall provide timely notice to the department of the date and location of the underground storage tank installation or closure and shall establish with the department the time when an inspection may be conducted.

(2) An owner or operator may conduct an installation or closure under this section only if an inspector is present.

(3) An inspection fee must be paid by the owner or operator to the department to cover the costs associated with an inspection. The inspection is not considered

complete until the owner or operator pays the fee.

(4) Department officials or local government officers, such as local health officers, sanitarians, local fire chiefs, or other persons designated or hired by the department, shall conduct inspections on behalf of the department.

(5) The department shall pay the person conducting an inspection on the department's behalf, as provided in subsection (4), from the underground storage tank license and permit account established in [section 18] up to 80% of any fee collected by the department for the inspection. When an inspection is conducted by an officer of a county or city, the payment must be made by the department to the appropriate county or city treasurer. A county or city shall use payments received under this section only for costs incurred in conducting inspections under this section.

(6) A copy of an installation inspection report must be kept on file by the owner or operator for as long as the department may require by rule. A copy of a closure inspection report must be kept by the owner or operator for 3 years after the date of closure.

(7) The department may enter and inspect the premises or any appurtenant property of an owner or operator at any time to ensure compliance with laws or rules pertaining to underground storage tanks.

**NEW SECTION. Section 10. Exemption.** The owner or operator of a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank used for storing heating oil for consumptive use on the premises where stored shall obtain a permit for the installation or closure of the tank but is not required to obtain the services of a licensed installer.

**NEW SECTION. Section 11. Administrative enforcement.**

(1) When the department believes that a person has violated [sections 1 through 18], a rule adopted thereunder, or a permit provision, it may serve written notice of the violation on the person or his agent. The notice must specify the alleged violation and the facts that constitute the alleged violation. The notice may include an order to provide information pertaining to the installation or closure or an order to take necessary corrective action within a reasonable time as stated in the order. The notice and order may be signed and served by a department inspector if it is personally given to the person or to his agent. Every other notice and order must be signed by the director of the department or his deputy and must be served by certified mail upon the person or his agent. The order becomes final unless, within 30 days after the notice is served, the person requests in writing a hearing before the

board. On receipt of the request, the board shall schedule a hearing. Service by mail is complete on the date of mailing.

(2) If, pursuant to a hearing held under subsection (1), the board finds that a violation has occurred, it shall either affirm or modify the department's order. An order issued by the department or the board may prescribe the date by which the violation must cease and may prescribe time limits for particular action. If, after a hearing, the board finds that no violation has occurred, it shall rescind the department's order.

(3) Instead of issuing an order pursuant to subsection (1), the department may either:

(a) require the alleged violator to appear before the board for a hearing at a time and place specified in the notice and answer the charges described in the notice of violation; or

(b) initiate action under [section 12, 14, or 15].

(4) This section does not prevent the board or department from attempting to obtain voluntary compliance through issuance of a warning, a conference, or any other appropriate administrative or judicial means.

**NEW SECTION. Section 12. Injunctions.** The department may institute and maintain in the name of the state actions for injunctive relief as provided in Title 27, chapter 19,

1 to:

2 (1) immediately restrain any person from engaging in  
3 unauthorized activity that is endangering public health or  
4 causing damage to the environment;

5 (2) enjoin a violation of [sections 1 through 18], a  
6 rule adopted under [sections 1 through 18], or an order of  
7 the department or the board; or

8 (3) require compliance with [sections 1 through 18], a  
9 rule adopted under [sections 1 through 18], or an order of  
10 the department or the board.

11 NEW SECTION. Section 13. Imminent hazard. Upon  
12 receipt of evidence that the installation or closure of an  
13 underground storage tank may present an imminent and  
14 substantial danger to public health or the environment, the  
15 department may commence administrative or judicial  
16 proceedings to immediately abate the danger or to restrain,  
17 order, or enjoin any person from causing the danger. The  
18 department may take other judicial or administrative action  
19 as may be necessary.

20 NEW SECTION. Section 14. Civil penalties. (1) Any  
21 person who violates any provision of [sections 1 through  
22 18], a rule adopted under [sections 1 through 18], or an  
23 order of the department or the board is subject to a civil  
24 penalty not to exceed \$10,000 per violation. Each day of  
25 violation of [sections 1 through 18], a rule adopted under

1 [sections 1 through 18], or an order constitutes a separate  
2 violation.

3 (2) The department may institute and maintain in the  
4 name of the state any enforcement proceedings under this  
5 section. Upon request of the department, the attorney  
6 general or the county attorney of the county where the  
7 violation occurred shall petition the district court to  
8 impose, assess, and recover the civil penalty.

9 (3) Action under this section does not bar:

10 (a) enforcement of [sections 1 through 18], rules  
11 adopted under [sections 1 through 18], orders of the  
12 department or the board, or terms of a license or permit by  
13 injunction or other appropriate remedy; or

14 (b) action under [section 15].

15 NEW SECTION. Section 15. Criminal penalties. (1) Any  
16 owner or operator who knowingly installs or closes an  
17 underground storage tank without a permit and either an  
18 inspection or the use of the services of a licensed  
19 installer as required in [section 5]; any installer who  
20 knowingly installs or closes an underground storage tank  
21 without being licensed; or any person who knowingly makes  
22 any false statements or representations in any application,  
23 permit, report, licensing form, or other document filed or  
24 maintained as required by [sections 1 through 18] or  
25 required by rules adopted under [sections 1 through 18] is

1 subject to a fine not to exceed \$10,000 for each violation  
2 or imprisonment not to exceed 6 months, or both. Each day of  
3 violation constitutes a separate violation.

4 (2) A person convicted of a second or subsequent  
5 criminal violation is subject to a fine not to exceed  
6 \$20,000 for each violation or imprisonment not to exceed 1  
7 year, or both. Each day of violation constitutes a separate  
8 violation.

9 (3) Action under this section does not bar enforcement  
10 of [sections 1 through 18], rules adopted under [sections 1  
11 through 18], orders of the department or the board, or terms  
12 of a license or permit by injunction or other appropriate  
13 remedy.

14 NEW SECTION. Section 16. Compliance with other laws  
15 --limitation on local ordinances. (1) Nothing in [sections 1  
16 through 18] limits or alters the responsibility of an owner,  
17 operator, or installer to comply with all other state laws  
18 or rules.

19 (2) Ordinances adopted by local government units  
20 requiring installation or closure permits or licensed  
21 installers, or both, may be no less stringent than the  
22 requirements of [sections 1 through 18].

23 NEW SECTION. Section 17. Application of other law.  
24 (1) The provisions of [sections 1 through 18] and rules  
25 adopted under [sections 1 through 18] govern if they

1 conflict with other provisions of Montana law or any action  
2 taken by the department under the other provisions of law.

3 (2) The remedies provided for in [sections 1 through  
4 18] are cumulative with other remedies provided by law.

5 NEW SECTION. Section 18. Underground storage tank  
6 license and permit account. (1) There is an underground  
7 storage tank license and permit account within the state  
8 special revenue fund established in 17-2-102.

9 (2) There must be paid into the account:

10 (a) revenues from permit, license, and inspection fees  
11 collected under [sections 1 through 18]; and

12 (b) revenues from penalties or damages collected under  
13 [sections 1 through 18].

14 (3) Appropriations may be made from the underground  
15 storage tank license and permit account only for the  
16 administration of the underground storage tank program.

17 NEW SECTION. Section 19. Appropriation. (1) (A) There  
18 is appropriated as a loan from the general fund to the  
19 underground storage tank license and permit account \$50,000  
20 for the biennium ending June 30, 1991.

21 (B) THERE IS APPROPRIATED \$50,000 FROM THE ACCOUNT TO  
22 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES for the  
23 administration of [sections 1 through 18] by the--department  
24 of-health-and-environmental-sciences.

25 (2) The department shall use money from the

1 underground storage tank license and permit account to repay  
2 over a 10-year period to the general fund the loan amount,  
3 plus interest at a rate equivalent to the previous fiscal  
4 year's average rate of return on the board of investments'  
5 short-term interest pool.

6 NEW SECTION. **Section 20.** Exemption from sunrise and  
7 audit requirement. [This act] is exempt from the legislative  
8 audit committee report provided for in 2-8-203.

9 NEW SECTION. **Section 21.** Effective dates. (1)  
10 [Sections 4, 20, and this section] are effective on passage  
11 and approval.

12 (2) ~~{Section-19}-is~~ [SECTIONS 18 AND 19] ARE effective  
13 July 1, 1989.

14 (3) [Sections 1 through 3 and 5 through ~~18~~ 17] are  
15 effective April 1, 1990.

-End-