

SENATE BILL NO. 196

INTRODUCED BY DEVLIN, BECK, GAGE, BURNETT,  
GRINDE, DEBRUYCKER, BRUSKI-MAUS, KASTEN, TASH,  
KELLER, FORRESTER, M. HANSON, L. NELSON, MCCAFFREE,  
ZOOK, STOVALL, TUNBY, KNOX, NATHE, MESAROS, SWYSGOOD,  
WEEDING, TVEIT, MASON, AKLESTAD, REA, KOEHNKE, HERTEL, TOEWS

IN THE SENATE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 10, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY
FEBRUARY 12, 1993	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 13, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 40; NOES, 10.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 29, 1993	COMMITTEE RECOMMEND BILL BE NOT CONCURRED IN. REPORT ADOPTED.
APRIL 19, 1993	SPEAKER RULES COMMITTEE REPORT IMPROPERLY ADOPTED. COMMITTEE TO RECONSIDER ACTION.
APRIL 20, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 21, 1993	SECOND READING, CONCURRED IN.

APRIL 22, 1993

THIRD READING, CONCURRED IN.  
AYES, 66; NOES, 33.

RETURNED TO SENATE.

IN THE SENATE

APRIL 22, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 1916  
2 INTRODUCED BY Arthur Buck BURNETT CRIVOL  
3 Frank Smith Walter Bill John Travis Tom  
4 M. Hanson L. Nelson M. Olson John Sam Storoff Tracy  
5 A BILL FOR AN ACT ENTITLED, "AN ACT EXEMPTING NONCOMMERCIAL RUCX  
NATHA Mason Supposed Underground Storage Tanks  
6 UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN  
HALESTAD Gila Travis  
7 CAPACITY FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND  
8 STORAGE TANK ACT; AND AMENDING SECTIONS 75-10-403, Nelson  
9 75-10-405, AND 75-11-217, MCA."

9

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

11       **Section 1.** Section 75-10-403, MCA, is amended to read:

12 "75-10-403. Definitions. Unless the context requires  
13 otherwise, in this part the following definitions apply:

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

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

19           (3) "Dispose" or "disposal" means the discharge,  
20       injection, deposit, dumping, spilling, leaking, or placing  
21       of any regulated substance or hazardous waste into or onto  
22       the land or water so that the regulated substance, hazardous  
23       waste, or any constituent of the regulated substance or  
24       hazardous waste may enter the environment or be emitted into  
25       the air or discharged into any waters, including ground

1 water.

2 (4) "Facility" or "hazardous waste management facility"

3 means all contiguous land and structures, other

4 appurtenances, and improvements on the land used for

5 treating, storing, or disposing of hazardous waste. A

6 facility may consist of several treatment, storage, or

7 disposal operational units.

8           (5) "Generation" means the act or process of producing  
9   waste material.

10 (6) "Generator" means any person, by site, whose act or  
11 process produces hazardous waste or whose act first causes a  
12 hazardous waste to become subject to regulation under this  
13 part.

14 (7) (a) "Hazardous waste" means a waste or combination  
15 of wastes that, because of its quantity, concentration, or  
16 physical, chemical, or infectious characteristics, may:

17 (i) cause or significantly contribute to an increase in  
18 mortality or an increase in serious irreversible or  
19 incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

23 (b) Hazardous wastes do not include those substances  
24 governed by Title 82, chapter 4, part 2.

25 (8) "Hazardous waste management" means the management

1 of the collection, source separation, storage,  
2 transportation, processing, treatment, recovery, and  
3 disposal of hazardous wastes.

4 (9) "Hazardous waste transfer facility" means any land,  
5 structure, or improvement, including loading docks, parking  
6 areas, holding sites, and other similar areas, used for the  
7 transfer and temporary storage of hazardous wastes and where  
8 shipments of hazardous waste are temporarily held for a  
9 period of 10 days or less during the normal course of  
10 transportation up to but not including the point of ultimate  
11 treatment, storage, or disposal.

12 (10) "Manifest" means the shipping document originated  
13 and signed by the generator and which is used to identify  
14 the hazardous waste, its quantity, origin, and destination  
15 during its transportation.

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

21 (12) "Regulated substance":

22 (a) means:

23 (i) a hazardous substance as defined in 75-10-602; or

24 (ii) petroleum, including crude oil or any fraction  
25 thereof, which is liquid at standard conditions of

1 temperature and pressure (60 degrees F and 14.7 pounds per  
2 square inch absolute);

3 (b) does not include a substance regulated as a  
4 hazardous waste under this part.

5 (13) "Storage" means the actual or intended containment  
6 of regulated substances, hazardous wastes, or both, either  
7 on a temporary basis or for a period of years.

8 (14) "Transportation" means the movement of hazardous  
9 wastes from the point of generation to any intermediate  
10 points and finally to the point of ultimate storage or  
11 disposal.

12 (15) "Transporter" means a person engaged in the offsite  
13 transportation of hazardous waste by air, rail, highway, or  
14 water.

15 (16) "Treatment" means a method, technique, or process,  
16 including neutralization, designed to change the physical,  
17 chemical, or biological character or composition of any  
18 hazardous waste so as to neutralize the waste or so as to  
19 render it nonhazardous, safer for transportation, amenable  
20 for recovery, amenable for storage, or reduced in volume.

21 (17) "Underground storage tank":

22 (a) means, except as provided in subsections (17)(b)(i)  
23 through ~~(17)(b)(viii)~~ (17)(b)(ix):

24 (i) any one or combination of tanks used to contain a  
25 regulated substance, the volume of which is 10% or more

1 beneath the surface of the ground; and

2 (ii) any underground pipes used to contain or transport

3 a regulated substance and connected to a storage tank,

4 whether the storage tank is entirely above ground, partially

5 above ground, or entirely underground;

6 (b) does not include:

7 (i) a septic tank;

8 (ii) a pipeline facility (including gathering lines)

9 regulated under:

10 (A) the Natural Gas Pipeline Safety Act of 1968 (49

11 U.S.C. 1671, et seq.);

12 (B) the Hazardous Liquid Pipeline Safety Act of 1979

13 (49 U.S.C. 2001, et seq.); or

14 (C) state law comparable to the provisions of law

15 referred to in subsection (17)(b)(ii)(A) or (17)(b)(ii)(B),

16 if the facility is intrastate;

17 (iii) a surface impoundment, pit, pond, or lagoon;

18 (iv) a storm water or wastewater collection system;

19 (v) a flow-through process tank;

20 (vi) a liquid trap or associated gathering lines

21 directly related to oil or gas production and gathering

22 operations;

23 (vii) a storage tank situated in an underground area,

24 such as a basement, cellar, mine, draft, shaft, or tunnel,

25 if the storage tank is situated upon or above the surface of

1 the floor; or

2 (viii) any pipe connected to a tank described in

3 subsections (17)(b)(i) through (17)(b)(vi); or

4 (ix) any noncommercial tank that would otherwise be

5 defined as an underground storage tank under subsection

6 (17)(a) that is 1,100 gallons or less in capacity."

7 **Section 2.** Section 75-10-405, MCA, is amended to read:

8 **"75-10-405. Administrative rules.** (1) The department

9 may adopt, amend, or repeal rules governing hazardous waste,

10 including but not limited to the following:

11 (a) identification and classification of those

12 hazardous wastes subject to regulation and those that are

13 not;

14 (b) requirements for the proper treatment, storage,

15 transportation, and disposal of hazardous waste;

16 (c) requirements for siting, design, operation,

17 maintenance, monitoring, inspection, closure, postclosure,

18 and reclamation of hazardous waste management facilities;

19 (d) requirements for the issuance, denial, renewal,

20 modification, and revocation of permits for hazardous waste

21 management facilities;

22 (e) requirements for corrective action within and

23 outside of facility boundaries and for financial assurance

24 of that corrective action;

25 (f) requirements for manifests and the manifest system

for tracking hazardous waste and for reporting and recordkeeping by generators, transporters, and owners and operators of hazardous waste management facilities;

(g) requirements for training of facility personnel and for financial assurance of facility owners and operators and for liability of guarantors providing financial assurance;

(h) requirements for registration of generators and transporters;

(i) a schedule of fees for hazardous waste management facility permits and registration of hazardous waste generators;

(j) a schedule of fees to defray a portion of the costs of establishing, operating, and maintaining any state hazardous waste management facility authorized by 75-10-412;

(k) requirements for availability to the public of information obtained by the department regarding facilities and sites used for the treatment, storage, and disposal of hazardous wastes; and

(l) other rules which are necessary to obtain and maintain authorization under the federal program.

(2) The department may not adopt rules under this part that are more restrictive than those promulgated by the federal government under the Resource Conservation and Recovery Act of 1976, as amended, except that the department:

(a) may require the registration of transporters not otherwise required to register with the state of Montana pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;

(b) may require generators and facilities to report on an annual rather than on a biennial basis;

(c) may adopt requirements for the prevention and correction of leakage from underground storage tanks, including:

(i) reporting by owners and operators;

(ii) financial responsibility;

(iii) release detection, prevention, and corrective action;

(iv) standards for design, construction, installation, and closure;

(v) development of a schedule of fees, not to exceed \$50 for a tank over 1,100 gallons and not to exceed \$20 for a tank 1,100 gallons or less, per tank, for tank notification and permits to defray state and local costs of implementing an underground storage tank program; and

(vi) delegation of authority and funds to local agents for inspections and implementation. The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the department of justice that relate to

1 underground storage tanks.

2 (d) may adopt regulatory requirements for hazardous  
3 waste transfer facilities;

4 (e) shall require the owner or manager of any proposed  
5 commercial facility for the storage, collection, or transfer  
6 of hazardous waste to conduct a public hearing, as provided  
7 for in 75-10-441; and

8 (f) may adopt rules and performance standards for  
9 industrial furnaces and boilers that burn hazardous wastes.

10 The rules and performance standards:

11 (i) may be adopted if there are no federal regulations;

12 or

13 (ii) may be more restrictive than federal regulations."

14 **Section 3.** Section 75-11-217, MCA, is amended to read:

15 "75-11-217. **Exemption.** The owner or operator of a--farm  
16 or-residential-tank-with-a-capacity-of-17100-gallons-or-less  
17 that--is--used--for--storing--motor--fuel--for--noncommercial  
18 purposes--or a tank used for storing heating oil for  
19 consumptive use on the premises where stored shall obtain a  
20 permit for the installation or closure of the tank but is  
21 not required to obtain the services of a licensed  
22 installer."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0196, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** A bill exempting noncommercial underground storage tanks that are 1,100 gallons or less in capacity from the Montana Hazardous Waste and Underground Storage Tank Act.

**ASSUMPTIONS:**

1. Those underground storage tanks and piping with a capacity of 1,100 gallons or less which are located at a farm or residence and used to store motor fuel for non-commercial purposes or which are used to store heating oil for on-premise consumption would be excluded from regulation.
2. Annual registration fees of all regulated tanks would be \$50 per year. Since fees are collected at the beginning of each calendar year, a portion of the collections must be carried over into the next fiscal year to fund the program.
3. Owners of underground heating oil tanks and piping with a capacity of 1,100 gallons or less used to store heating oil for on-premise consumption will not be required to obtain a permit prior to installing or closing the tank or piping. Owners of farm and residential tanks with capacities of 1,100 gallons or less used to store motor fuel for non-commercial use will not have to obtain a permit prior to installing or removing such a tank.
4. In accordance with 75-10-405, MCA, during FY94 and FY95, the DHES will invoice the owners and operators of approximately 8,171 commercial underground storage tanks and pipes for an annual tank registration fee of \$50. The collection of these registration fees will generate \$408,550 ( $\$50 \times 8171 = \$408,550$ ) each year of the biennium. Under current law, \$477,930 is collected in fees. This proposed bill will reduce fee collections by \$69,380.
5. This assumption deals with the loss of revenue from non-commercial tank permitting activities, in accordance with 75-11-217, MCA. During FY93, tank owners permanently closed by removal from the ground or closing-in place 483 underground storage tanks with a capacity of 1,100 gallons or less which were used to store motor fuel for non-commercial use at a farm or residence or which were used to store heating oil for on-premise consumption. Approximately one-third of the tank owners completed the work themselves, thereby requiring a DHES inspection (\$65 per inspection). It is assumed that 483 non-commercial tanks will be removed in both FY94 and FY95 and one-third of the tank owners will be required to have the DHES tank inspection. Upon passage of this bill, neither a permit nor a required inspection will be needed for the above tank removals. There will be an anticipated loss of approximately \$16,905 in permit review fees ( $\$35 \times 483 = \$16,905$ ), and \$10,465 in inspection fees ( $\$65 \times 161 = \$10,465$ ), during each of the fiscal years.
6. To compensate for the revenue loss of \$96,750 during each year of the 1995 biennium, the FY94 and FY95 grant expenditures will be reduced by a like amount. Other expenditures may not be reduced in order to maintain primacy.
7. Revenue projections assume that there will be no delinquent fee collections and no increase in tank registration fees or alternate funding mechanism available to replace lost revenue.

(Continued)

David Lewis 1-26-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Gerry Devlin 1/28/93  
GERRY DEVLIN, PRIMARY SPONSOR DATE

Fiscal Note for SB0196, as introduced

SB 196



FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	369,787	369,787	0	370,128	370,128	0
Operating Expenses	202,018	202,018	0	201,227	201,227	0
Equipment	4,517	4,517	0	4,533	4,533	0
Grants	<u>312,604</u>	<u>215,854</u>	<u>&lt;96,750&gt;</u>	<u>312,604</u>	<u>215,854</u>	<u>&lt;96,750&gt;</u>
Total	888,926	792,176	<96,750>	888,492	791,742	<96,750>
<u>Funding and Revenues:</u>						
Installer Lic & Permit Acc.	126,647	99,277	<27,370>	159,820	132,450	<27,370>
Hazardous Waste-CERCLA	54,167	54,167	0	54,167	54,167	0
UST Leak Prevention Program	545,612	476,232	<69,380>	512,005	442,625	<69,380>
Underground Storage Tank	<u>162,500</u>	<u>162,500</u>	<u>0</u>	<u>162,500</u>	<u>162,500</u>	<u>0</u>
Total	888,926	792,176	<96,750>	888,492	791,742	<96,750>
<u>Net Impact</u>						
All funds	0	0	0	0	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: The reduction in revenue will reduce the amount of money available to implement and maintain local tank programs and funds for local personnel training equipment, since the DHES must continue the core program to maintain program primacy.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: The tanks which are being removed from regulation are the small non-commercial tanks which typically require a minimum amount of regulatory oversight except at closure or when a release has occurred. Because the UST Program current level provides a core program, which must be maintained, one objective has been to enlist, train, fund and support local health and fire agencies to operate local underground storage tank programs. Without the current level assistance from local governmental agencies, the DHES would review its program development strategy to determine how to utilize staff and available resources to effectively regulate the operation and management of commercial underground storage tanks with capacities greater than 1,100 gallons and provide assistance to owners and operators of underground storage tanks and the public.

APPROVED BY COMM. ON  
NATURAL RESOURCES

## SENATE BILL NO. 196

INTRODUCED BY DEVLIN, BECK, GAGE, BURNETT,

GRINDE, DEBRUYCKER, BRUSKI-MAUS, KASTEN, TASH,

KELLER, FORRESTER, M. HANSON, L. NELSON, MCCAFFREE,

ZOOK, STOVALL, TUNBY, KNOX, NATHE, MESAROS, SWYSGOOD,

WEEDING, TVEIT, MASON, AKLESTAD, REA, KOEHNKE, HERTEL, TOEWS

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING NONCOMMERCIAL  
FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE  
1,100 GALLONS OR LESS IN CAPACITY FROM THE CLOSURE  
REQUIREMENTS OF THE MONTANA HAZARDOUS WASTE AND UNDERGROUND  
STORAGE TANK ACT; AND AMENDING SECTIONS 75-10-403,  
75-10-405, AND 75-11-217 75-11-209 AND 75-11-212, MCA; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION  
DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Exemptions -- tank closure.

(1) For the purposes of this section, a tank is a farm or  
residential underground storage tank with a capacity of  
1,100 gallons or less that is used either for storing motor  
fuel for noncommercial purposes or for storing heating oil  
for consumptive use on the premises where stored.

(2) An owner or operator may close a tank without a  
license required under 75-11-212 or without the services of  
a licensed installer, provided that:

(a) on or before the date of the next tank registration  
period, the owner or operator notifies the department of the  
date of the tank's removal; and

(b) when closing a tank, if the owner or operator  
discovers or suspects that there has been a leak, the owner  
or operator notifies the department immediately and performs  
initial response and abatement procedures.

**Section 2.** Section 75-11-209, MCA, is amended to read:

"75-11-209. Permits -- requirement for licensed  
installer. (1) Except as provided in [section 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 75-11-212.

(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 75-11-213; or

(b) exempt from the requirement for a licensed  
installer, as provided in 75-11-217."

1       **Section 3.** Section 75-11-212, MCA, is amended to read:  
 2       "75-11-212. Permits -- application procedure --  
 3       issuance. (1) Before Except as provided in [section 1],  
 4       before the installation or closure of an underground storage  
 5       tank, the owner or operator shall file a permit application  
 6       with the department on forms provided by the department. The  
 7       time between the filing of a permit application with the  
 8       department and the installation or closure may be provided  
 9       by department rule. The department may provide by rule for  
 10       emergency permits to apply to emergency conditions  
 11       pertaining to the installation or closure of underground  
 12       storage tanks.  
 13       (2) The permit application must, at a minimum, require  
 14       the owner or operator to provide information concerning:  
 15       (a) the date of the tank installation or closure;  
 16       (b) the location of the tank installation or closure;  
 17       (c) the type of construction of the tank;  
 18       (d) the contents of the tank being closed or the  
 19       anticipated contents of the tank being installed; and  
 20       (e) the name of the licensed installer who will be  
 21       installing or closing the underground storage tank or, if  
 22       the owner or operator is not going to have the underground  
 23       storage tank installed or closed by a licensed installer,  
 24       the estimated date for inspection by the department.  
 25       (3) After receipt of a completed application that meets

1       the requirements of this section and any rules adopted under  
 2       75-11-204(1), the department shall issue the permit."  
 3       NEW SECTION. **Section 4.** Codification instruction.  
 4       [Section 1] is intended to be codified as an integral part  
 5       of Title 75, chapter 11, part 2, and the provisions of Title  
 6       75, chapter 11, part 2, apply to [section 1].  
 7       NEW SECTION. **Section 5.** Effective date. [This act] is  
 8       effective on passage and approval.  
 9       NEW SECTION. **Section 6.** Termination. [This act]  
 10       terminates January 1, 1994.

-End-

## SENATE BILL NO. 196

INTRODUCED BY DEVLIN, BECK, GAGE, BURNETT,

GRINDE, DEBRUYCKER, BRUSKI-MAUS, KASTEN, TASH,

KELLER, FORRESTER, M. HANSON, L. NELSON, MCCAFFREE,

ZOOK, STOVALL, TUNBY, KNOX, NATHE, MESAROS, SWYSGOOD,

WEEDING, TVEIT, MASON, AKLESTAD, REA, KOEHNKE, HERTEL, TOEWS

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM THE CLOSURE REQUIREMENTS OF THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; AND AMENDING SECTIONS 75-10-403, 75-10-405, AND 75-11-212 75-11-209 AND 75-11-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Exemptions -- tank closure.

(1) For the purposes of this section, a tank is a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is used either for storing motor fuel for noncommercial purposes or for storing heating oil for consumptive use on the premises where stored.

(2) An owner or operator may close a tank without a license required under 75-11-212 or without the services of a licensed installer, provided that:

(a) on or before the date of the next tank registration period, the owner or operator notifies the department of the date of the tank's removal; and

(b) when closing a tank, if the owner or operator discovers or suspects that there has been a leak, the owner or operator notifies the department immediately and performs initial response and abatement procedures; AND

(C) THE COUNTY HEALTH DEPARTMENT IS NOTIFIED, AT LEAST 48 HOURS IN ADVANCE, THAT THE OWNER OR OPERATOR INTENDS TO CLOSE A TANK.

**Section 2.** Section 75-11-209, MCA, is amended to read:

"75-11-209. Permits -- requirement for licensed installer. (1) An Except as provided in [section 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 75-11-212.

(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

1 local inspector as provided in 75-11-213; or

2 (b) exempt from the requirement for a licensed  
3 installer, as provided in 75-11-217."

4 **Section 3.** Section 75-11-212, MCA, is amended to read:

5 "75-11-212. Permits -- application procedure --  
6 issuance. (1) Before Except as provided in [section 1],  
7 before the installation or closure of an underground storage  
8 tank, the owner or operator shall file a permit application  
9 with the department on forms provided by the department. The  
10 time between the filing of a permit application with the  
11 department and the installation or closure may be provided  
12 by department rule. The department may provide by rule for  
13 emergency permits to apply to emergency conditions  
14 pertaining to the installation or closure of underground  
15 storage tanks.

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

- 18 (a) the date of the tank installation or closure;
- 19 (b) the location of the tank installation or closure;
- 20 (c) the type of construction of the tank;
- 21 (d) the contents of the tank being closed or the  
22 anticipated contents of the tank being installed; and
- 23 (e) the name of the licensed installer who will be  
24 installing or closing the underground storage tank or, if  
25 the owner or operator is not going to have the underground

1 storage tank installed or closed by a licensed installer,  
2 the estimated date for inspection by the department.

3 (3) After receipt of a completed application that meets  
4 the requirements of this section and any rules adopted under  
5 75-11-204(1), the department shall issue the permit."

6 NEW SECTION. **Section 4.** Codification instruction.  
7 [Section 1] is intended to be codified as an integral part  
8 of Title 75, chapter 11, part 2, and the provisions of Title  
9 75, chapter 11, part 2, apply to [section 1].

10 NEW SECTION. **Section 5.** Effective date. [This act] is  
11 effective on passage and approval.

12 NEW SECTION. **Section 6.** Termination. [This act]  
13 terminates January 1, 1994.

-End-

## SENATE BILL NO. 196

INTRODUCED BY DEVLIN, BECK, GAGE, BURNETT,

GRINDE, DEBRUYCKER, BRUSKI-MAUS, KASTEN, TASH,

KELLER, FORRESTER, M. HANSON, L. NELSON, MCCAFFREE,

ZOOK, STOVALL, TUNBY, KNOX, NATHE, MESAROS, SWYSGOOD,

WEEDING, TVEIT, NASON, AKLESTAD, REA, KOEHNKE, HERTEL, TOEWS

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM THE CLOSURE REQUIREMENTS OF THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; AND AMENDING SECTIONS 75-10-403, 75-10-405, AND 75-11-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Exemptions — tank closure.

(1) For the purposes of this section, a tank is a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is used either for storing motor fuel for noncommercial purposes or for storing heating oil for consumptive use on the premises where stored.

(2) An owner or operator may close a tank without a license required under 75-11-212 or without the services of a licensed installer, provided that:

(a) on or before the date of the next tank registration period, the owner or operator notifies the department of the date of the tank's removal; and

(b) when closing a tank, if the owner or operator discovers or suspects that there has been a leak, the owner or operator notifies the department immediately and performs initial response and abatement procedures; AND

(C) THE COUNTY HEALTH DEPARTMENT IS NOTIFIED, AT LEAST 48 HOURS IN ADVANCE, THAT THE OWNER OR OPERATOR INTENDS TO CLOSE A TANK.

**Section 2.** Section 75-11-209, MCA, is amended to read:

"75-11-209. Permits — requirement for licensed installer. (1) An Except as provided in [section 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 75-11-212.

(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

1 local inspector as provided in 75-11-213; or

2 (b) exempt from the requirement for a licensed  
3 installer, as provided in 75-11-217."

4 **Section 3.** Section 75-11-212, MCA, is amended to read:

5 "75-11-212. Permits -- application procedure --  
6 issuance. (1) Before Except as provided in [section 1],  
7 before the installation or closure of an underground storage  
8 tank, the owner or operator shall file a permit application  
9 with the department on forms provided by the department. The  
10 time between the filing of a permit application with the  
11 department and the installation or closure may be provided  
12 by department rule. The department may provide by rule for  
13 emergency permits to apply to emergency conditions  
14 pertaining to the installation or closure of underground  
15 storage tanks.

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

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

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

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

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

23 (e) the name of the licensed installer who will be  
24 installing or closing the underground storage tank or, if  
25 the owner or operator is not going to have the underground

1 storage tank installed or closed by a licensed installer,  
2 the estimated date for inspection by the department.

3 (3) After receipt of a completed application that meets  
4 the requirements of this section and any rules adopted under  
5 75-11-204(1), the department shall issue the permit."

6 **NEW SECTION.** **Section 4.** Codification instruction.  
7 [Section 1] is intended to be codified as an integral part  
8 of Title 75, chapter 11, part 2, and the provisions of Title  
9 75, chapter 11, part 2, apply to [section 1].

10 **NEW SECTION.** **Section 5.** Effective date. [This act] is  
11 effective on passage and approval.

12 **NEW SECTION.** **Section 6.** Termination. [This act]  
13 terminates January 1, 1994.

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