

ASSEMBLY BILL

No. 1702

**Introduced by Committee on Environmental Safety and Toxic
Materials (Laird (Chair), Chu, Levine, Lieber, and Lowenthal)**

February 25, 2003

An act to amend Sections 25281, 25288, 25292, 25293, 25295, 25295.5, 25298, and 25299 of, and to add Section 25280.6 to, the Health and Safety Code, relating to underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1702, as introduced, Committee on Environmental Safety and Toxic Materials. Underground storage tanks.

(1) Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks that are used to store hazardous substances to meet certain requirements. These requirements are required to be implemented by the local agency. Under existing law, with specified exceptions, no person may own or operate an underground storage tank containing hazardous substances unless a permit for its operation has been issued. Existing law defines the term “unauthorized release” for purposes of these requirements to exclude a release that is authorized by the State Water Resources Control Board or a California regional board pursuant to the Porter-Cologne Water Quality Control Act. Local agencies are required to take various actions with regard to an unauthorized release.

This bill would revise the definition of unauthorized release to delete the exclusion for releases authorized by the board or a regional board.

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to enforcing the provisions regulating underground storage tanks.

(2) Existing law authorizes the imposition of a civil penalty upon a owner of an underground tank system for, among other things, knowing failure to take reasonable and necessary steps to assure compliance by the operator of an underground tank system.

This bill would delete the authorization to impose that penalty and would provide that both the owner and the operator of an underground tank are responsible with complying with the requirements applicable to an owner or operator of an underground storage tank. The bill would make conforming changes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 25280.6 is added to the Health and
2 Safety Code, to read:

3 25280.6. Either the owner or operator of an underground
4 storage tank may comply with the requirements of this chapter that
5 apply to the owner or operator of an underground storage tank.
6 Both the owner and the operator of an underground storage tank
7 are responsible for complying with this chapter and if an
8 underground storage tank is not in compliance with this chapter,
9 both the owner and the operator of that underground storage tank
10 are in violation of that requirement.

11 SEC. 2. Section 25281 of the Health and Safety Code is
12 amended to read:

13 25281. For purposes of this chapter, the following definitions
14 apply:

15 (a) “Automatic line leak detector” means any method of leak
16 detection, as determined in regulations adopted by the board, that
17 alerts the owner or operator of an underground storage tank to the
18 presence of a leak. “Automatic line leak detector” includes, but
19 is not limited to, any device or mechanism that alerts the owner or
20 operator of an underground storage tank to the presence of a leak



1 by restricting or shutting off the flow of a hazardous substance
2 through piping, or by triggering an audible or visual alarm, and
3 that detects leaks of three gallons or more per hour at 10 pounds
4 per square inch line pressure within one hour.

5 (b) “Board” means the State Water Resources Control Board.
6 “Regional board” means a California regional water quality
7 control board.

8 (c) “Compatible” means the ability of two or more substances
9 to maintain their respective physical and chemical properties upon
10 contact with one another for the design life of the tank system
11 under conditions likely to be encountered in the tank system.

12 (d) (1) “Certified Unified Program Agency” or “CUPA”
13 means the agency certified by the Secretary for Environmental
14 Protection to implement the unified program specified in Chapter
15 6.11 (commencing with Section 25404) within a jurisdiction.

16 (2) “Participating Agency” or “PA” means an agency that has
17 a written agreement with the CUPA pursuant to subdivision (d) of
18 Section 25404.3, and is approved by the secretary to implement or
19 enforce the unified program element specified in paragraph (3) of
20 subdivision (c) of Section 25404, in accordance with Sections
21 25404.1 and 25404.2.

22 (3) “Unified Program Agency” or “UPA” means the CUPA,
23 or its participating agencies to the extent each PA has been
24 designated by the CUPA, pursuant to a written agreement, to
25 implement or enforce the unified program element specified in
26 paragraph (3) of subdivision (c) of Section 25404. For purposes of
27 this chapter, a UPA has the responsibility and authority, to the
28 extent provided by this chapter and Sections 25404.1 and 25404.2,
29 to implement and enforce only those requirements of this chapter
30 listed in paragraph (3) of subdivision (c) of Section 25404 and the
31 regulations adopted to implement those requirements. After a
32 CUPA has been certified by the secretary, the UPA shall be the only
33 local agency authorized to enforce the requirements of this chapter
34 listed in paragraph (3) of subdivision (c) of Section 25404 within
35 the jurisdiction of the CUPA. This paragraph shall not be construed
36 to limit the authority or responsibility granted to the board and the
37 regional boards by this chapter to implement and enforce this
38 chapter and the regulations adopted pursuant to this chapter.

39 (e) “Department” means the Department of Toxic Substances
40 Control.



1 (f) “Facility” means any one, or combination of, underground
2 storage tanks used by a single business entity at a single location
3 or site.

4 (g) “Federal act” means Subchapter IX (commencing with
5 Section 6991) of Chapter 82 of Title 42 of the United States Code,
6 as added by the Hazardous and Solid Waste Amendments of 1984
7 (P.L. 98-616), or as it may subsequently be amended or
8 supplemented.

9 (h) “Hazardous substance” means either of the following:

10 (1) All of the following liquid and solid substances, unless the
11 department, in consultation with the board, determines that the
12 substance could not adversely affect the quality of the waters of the
13 state:

14 (A) Substances on the list prepared by the Director of Industrial
15 Relations pursuant to Section 6382 of the Labor Code.

16 (B) Hazardous substances, as defined in Section 25316.

17 (C) Any substance or material that is classified by the National
18 Fire Protection Association (NFPA) as a flammable liquid, a class
19 II combustible liquid, or a class III-A combustible liquid.

20 (2) Any regulated substance, as defined in subsection (2) of
21 Section 6991 of Title 42 of the United States Code, as that section
22 reads on January 1, 1989, or as it may subsequently be amended
23 or supplemented.

24 (i) “Local agency” means the local agency authorized,
25 pursuant to Section 25283, to implement this chapter.

26 (j) “Operator” means any person in control of, or having daily
27 responsibility for, the daily operation of an underground storage
28 tank system.

29 (k) “Owner” means the owner of an underground storage tank.

30 (l) “Person” means an individual, trust, firm, joint stock
31 company, corporation, including a government corporation,
32 partnership, limited liability company, or association. “Person”
33 also includes any city, county, district, the state, another state of the
34 United States, any department or agency of this state or another
35 state, or the United States to the extent authorized by federal law.

36 (m) “Pipe” means any pipeline or system of pipelines that is
37 used in connection with the storage of hazardous substances and
38 that is not intended to transport hazardous substances in interstate
39 or intrastate commerce or to transfer hazardous materials in bulk
40 to or from a marine vessel.



1 (n) “Primary containment” means the first level of
2 containment, such as the portion of a tank that comes into
3 immediate contact on its inner surface with the hazardous
4 substance being contained.

5 (o) “Product tight” means impervious to the substance that is
6 contained, or is to be contained, so as to prevent the seepage of the
7 substance from the containment.

8 (p) “Release” means any spilling, leaking, emitting,
9 discharging, escaping, leaching, or disposing from an
10 underground storage tank into or on the waters of the state, the
11 land, or the subsurface soils.

12 (q) “Secondary containment” means the level of containment
13 external to, and separate from, the primary containment.

14 (r) “Single walled” means construction with walls made of
15 only one thickness of material. For the purposes of this chapter,
16 laminated, coated, or clad materials are considered single walled.

17 (s) “Special inspector” means a professional engineer,
18 registered pursuant to Chapter 7 (commencing with Section 6700)
19 of Division 3 of the Business and Professions Code, who is
20 qualified to attest, at a minimum, to structural soundness, seismic
21 safety, the compatibility of construction materials with contents,
22 cathodic protection, and the mechanical compatibility of the
23 structural elements of underground storage tanks.

24 (t) “Storage” or “store” means the containment, handling, or
25 treatment of hazardous substances, either on a temporary basis or
26 for a period of years. “Storage” or “store” does not include the
27 storage of hazardous wastes in an underground storage tank if the
28 person operating the tank has been issued a hazardous waste
29 facilities permit by the department pursuant to Section 25200 or
30 granted interim status under Section 25200.5.

31 (u) “Tank” means a stationary device designed to contain an
32 accumulation of hazardous substances which is constructed
33 primarily of nonearthen materials, including, but not limited to,
34 wood, concrete, steel, or plastic that provides structural support.

35 (v) “Tank integrity test” means a test method capable of
36 detecting an unauthorized release from an underground storage
37 tank consistent with the minimum standards adopted by the board.

38 (w) “Tank tester” means an individual who performs tank
39 integrity tests on underground storage tanks.



1 (x) “Unauthorized release” means any release of any
2 hazardous substance that does not conform to this chapter,
3 including, ~~but not limited to,~~ an unauthorized release specified in
4 Section 25295.5, ~~unless this release is authorized by the board or~~
5 ~~a regional board pursuant to Division 7 (commencing with Section~~
6 ~~13000) of the Water Code.~~

7 (y) (1) “Underground storage tank” means any one or
8 combination of tanks, including pipes connected thereto, that is
9 used for the storage of hazardous substances and that is
10 substantially or totally beneath the surface of the ground.
11 “Underground storage tank” does not include any of the
12 following:

13 (A) A tank with a capacity of 1,100 gallons or less that is
14 located on a farm and that stores motor vehicle fuel used primarily
15 for agricultural purposes and not for resale.

16 (B) A tank that is located on a farm or at the residence of a
17 person, that has a capacity of 1,100 gallons or less, and that stores
18 home heating oil for consumptive use on the premises where
19 stored.

20 (C) Structures, such as sumps, separators, storm drains, catch
21 basins, oil field gathering lines, refinery pipelines, lagoons,
22 evaporation ponds, well cellars, separation sumps, lined and
23 unlined pits, sumps and lagoons. A sump that is a part of a
24 monitoring system required under Section 25290.1, 25291, or
25 25292 and sumps or other structures defined as underground
26 storage tanks under the federal act are not exempted by this
27 subparagraph.

28 (D) A tank holding hydraulic fluid for a closed loop mechanical
29 system that uses compressed air or hydraulic fluid to operate lifts,
30 elevators, and other similar devices.

31 (2) Structures identified in subparagraphs (C) and (D) of
32 paragraph (1) may be regulated by the board and any regional
33 board pursuant to the Porter-Cologne Water Quality Control Act
34 (Division 7 (commencing with Section 13000) of the Water Code)
35 to ensure that they do not pose a threat to water quality.

36 (z) “Underground tank system” or “tank system” means an
37 underground storage tank, connected piping, ancillary equipment,
38 and containment system, if any.

39 (aa) (1) “Unified program facility” means all contiguous land
40 and structures, other appurtenances, and improvements on the land



1 that are subject to the requirements of paragraph (3) of subdivision
2 (c) of Section 25404.

3 (2) “Unified program facility permit” means a permit issued
4 pursuant to Chapter 6.11 (commencing with Section 25404), and
5 that encompasses the permitting requirements of Section 25284.

6 (3) “Permit” means a permit issued pursuant to Section 25284
7 or a unified program facility permit as defined in paragraph (2).

8 SEC. 3. Section 25288 of the Health and Safety Code is
9 amended to read:

10 25288. (a) The local agency shall inspect every underground
11 tank system within its jurisdiction at least once every year. The
12 purpose of the inspection is to determine whether the tank system
13 complies with the applicable requirements of this chapter and the
14 regulations adopted by the board pursuant to Section 25299.3,
15 including the design and construction standards of Section
16 25290.1, 25291, or 25292, whichever is applicable, whether the
17 *owner or operator* has monitored and tested the tank system as
18 required by the permit, and whether the tank system is in a safe
19 operating condition.

20 (b) After an inspection conducted pursuant to subdivision (a),
21 the local agency shall prepare a compliance report detailing the
22 inspection and shall send a copy of this report to the permitholder
23 and the owner or operator, if the owner or operator is not the
24 permitholder. Any report prepared pursuant to this section shall be
25 consolidated into any other inspection reports required pursuant to
26 Chapter 6.11 (commencing with Section 25404), the requirements
27 listed in subdivision (c) of Section 25404, and the regulations
28 adopted to implement the requirements listed in subdivision (c) of
29 Section 25404.

30 (c) In lieu of the annual local agency inspections, the local
31 agency may require the permitholder to employ a special inspector
32 to conduct the annual inspection. The local agency shall supply the
33 permitholder with a list of at least three special inspectors that are
34 qualified to conduct the inspection. The permitholder shall employ
35 a special inspector from the list provided by the local agency. The
36 special inspector’s authority shall be the same as that of the local
37 agency as set forth in subdivision (a).

38 (d) Within 60 days after receiving a compliance report or
39 special inspection report prepared in accordance with subdivision
40 (b) or (c), respectively, the permitholder shall file with the local



1 agency a plan to implement all recommendations contained in the
2 compliance report or shall demonstrate, to the satisfaction of the
3 local agency, why these recommendations should not be
4 implemented. Any corrective action conducted pursuant to the
5 recommendations in the report shall be taken pursuant to Sections
6 25296.10 and 25299.36.

7 SEC. 4. Section 25292 of the Health and Safety Code is
8 amended to read:

9 25292. For every underground storage tank installed on or
10 before January 1, 1984, and used for the storage of hazardous
11 substances, the following actions shall be taken:

12 (a) On or before July 1, 1985, the owner *or operator* shall outfit
13 the underground tank system with a monitoring system capable of
14 detecting unauthorized releases of any hazardous substances
15 stored in the tank system, and thereafter, the *owner or operator*
16 shall monitor each tank system, based on materials stored and the
17 type of monitoring installed.

18 (b) Provide a means for visual inspection of the tank system,
19 wherever practical, for the purpose of the monitoring required by
20 subdivision (a). Alternative methods of monitoring the tank
21 system on a monthly, or more frequent basis, may be required by
22 the local agency, consistent with the regulations of the board.

23 The alternative monitoring methods include, but are not limited
24 to, the following methods:

25 (1) Tank integrity testing for proving the integrity of an
26 underground tank system at time intervals specified by the board.

27 (2) A groundwater monitoring well or wells ~~which~~ *that* are
28 downgradient and adjacent to the underground tank system, vapor
29 analysis within a well where appropriate, and analysis of soil
30 borings at the time of initial installation of the well.

31 (3) A continuous leak detection and alarm system ~~which~~ *that*
32 is located in monitoring wells adjacent to an underground tank
33 system and which is approved by the local agency.

34 (4) For monitoring tanks containing motor vehicle fuels, daily
35 gauging and inventory reconciliation by the *owner or operator*, if
36 all of the following requirements are met:

37 (A) Inventory records are kept on file for one year and are
38 reviewed quarterly.

39 (B) The tank system is tested, using the tank integrity test at
40 time intervals specified by the board and whenever there is a



1 shortage greater than the amount which the board shall specify by
2 regulation.

3 (C) If a pressurized pump system is connected to the tank
4 system, the system has a leak detection device to monitor for leaks
5 in the piping. The leak detection device shall be installed in a
6 manner designed to resist unauthorized tampering and to clearly
7 show by visual inspection if tampering has occurred. The leak
8 detection device shall be tested annually, at a minimum, and all
9 devices found to be not performing in conformance with the
10 manufacturer's leak detection specifications shall be promptly
11 repaired or replaced.

12 (5) For monitoring underground tank systems ~~which~~ *that* are
13 located on farms and ~~which~~ *that* store motor vehicle or heating
14 fuels used primarily for agricultural purposes, alternative
15 monitoring methods include the following:

16 (A) If the tank has a capacity of greater than 1,100 gallons but
17 of 5,000 gallons or less, the tank shall be tested using the tank
18 integrity test, at least once every three years, and the owner *or*
19 *operator* shall utilize tank gauging on a monthly or more frequent
20 basis, as required by the local agency, subject to the specifications
21 provided in paragraph (7) of subdivision (c) of Section 2641 of
22 Title 23 of the California Code of Regulations, as that section read
23 on August 13, 1985.

24 (B) If the tank has a capacity of more than 5,000 gallons, the
25 tank shall be monitored pursuant to the methods for all other tanks
26 specified in this subdivision.

27 (c) The board shall develop regulations specifying monitoring
28 alternatives. The local agency, or any other public agency
29 specified by the local agency, shall approve the location and
30 number of wells, the depth of wells, and the sampling frequency,
31 pursuant to these regulations.

32 (d) On or before December 22, 1998, the underground storage
33 tank shall be replaced or upgraded to prevent releases due to
34 corrosion or spills or overfills for the underground storage tanks's
35 operating life.

36 (e) (1) All existing underground pressurized piping shall be
37 equipped with an automatic line leak detector on or before
38 December 22, 1990, and shall be retrofitted with secondary
39 containment on or before December 22, 1998. Underground
40 pressurized piping shall be tightness tested annually.



1 (2) Paragraph (1) does not apply to existing pressurized piping
2 containing motor vehicle fuel, if the pipeline is constructed of
3 glass fiber reinforced plastic, cathodically protected steel, or steel
4 clad with glass fiber reinforced plastic, is equipped with an
5 automatic line leak detector, and is tightness tested annually.

6 SEC. 5. Section 25293 of the Health and Safety Code is
7 amended to read:

8 25293. The *owner or* operator of the underground tank system
9 shall monitor the tank system using the method specified on the
10 permit for the tank system. Records of monitoring, testing,
11 repairing, and closure shall be kept in sufficient detail to enable the
12 local agency to determine whether the underground tank system is
13 in compliance with the applicable provisions of this chapter, the
14 regulations adopted by the board pursuant to Section 25299.3, and
15 the permit issued for the operation of the tank system.

16 SEC. 6. Section 25295 of the Health and Safety Code is
17 amended to read:

18 25295. (a) (1) Any unauthorized release which escapes
19 from the secondary containment, or from the primary
20 containment, if no secondary containment exists, increases the
21 hazard of fire or explosion, or causes any deterioration of the
22 secondary containment of the underground tank system shall be
23 reported by the *owner or* operator to the local agency designated
24 pursuant to Section 25283 within 24 hours after the release has
25 been detected or should have been detected. A full written report
26 shall be transmitted by the owner or operator of the underground
27 tank system to the local agency within five working days of the
28 occurrence of the release. The report shall describe the nature and
29 volume of the unauthorized release, any corrective or remedial
30 actions undertaken, and any further corrective or remedial actions,
31 including investigative actions, which will be needed to clean up
32 the unauthorized release and abate the effects of the release and a
33 time schedule for implementing these actions.

34 (2) The local agency shall review the permit whenever there
35 has been an unauthorized release or when it determines that the
36 underground tank system is unsafe. In determining whether to
37 modify or terminate the permit, the local agency shall consider the
38 age of the tank, the methods of containment, the methods of
39 monitoring, the feasibility of any required repairs, the
40 concentration of the hazardous substances stored in the tank, the



1 severity of potential unauthorized releases, and the suitability of
2 any other long-term preventive measures which would meet the
3 requirements of this chapter.

4 (b) In cooperation with the Office of Emergency Services, the
5 board shall submit an annual statewide report by county, to the
6 Legislature, of all unauthorized releases, indicating for each
7 unauthorized release the operator, the hazardous substance, the
8 quantity of the unauthorized release, and the actions taken to abate
9 the problem.

10 (c) The reporting requirements imposed by this section are in
11 addition to any requirements which may be imposed by Sections
12 13271 and 13272 of the Water Code.

13 SEC. 7. Section 25295.5 of the Health and Safety Code is
14 amended to read:

15 25295.5. (a) For purposes of this chapter, an unauthorized
16 release includes, but is not limited to, a spill or overflow of a
17 hazardous substance that meets both of the following conditions:

18 (1) The spill or overflow occurs while the hazardous substance
19 is being placed in an underground storage tank.

20 (2) The spill or overflow is due to the use of improper equipment,
21 faulty equipment, operator error, or inattention or overfilling.

22 (b) A person who causes an unauthorized release of a
23 hazardous substance specified in subdivision (a) shall
24 immediately notify the *owner or* operator of the underground
25 storage tank that a spill has occurred and the *owner or* operator
26 shall comply with the requirements of Sections 25294 or 25295,
27 whichever is applicable.

28 (c) A spill or overflow shall not qualify for funds provided
29 pursuant to Section 25299.51.

30 SEC. 8. Section 25298 of the Health and Safety Code is
31 amended to read:

32 25298. (a) No person shall abandon an underground tank
33 system or close or temporarily cease operating an underground
34 tank system, except as provided in this section.

35 (b) An underground tank system ~~which~~ *that* is temporarily
36 taken out of service, but which the *owner or* operator intends to
37 return to use, shall continue to be subject to all the permit,
38 inspection, and monitoring requirements of this chapter and all
39 applicable regulations adopted by the board pursuant to Section



1 25299.3, unless the *owner or* operator complies with subdivision
2 (c) for the period of time the underground tank system is not in use.

3 (c) No person shall close an underground tank system unless
4 the person undertakes all of the following actions:

5 (1) Demonstrates to the local agency that all residual amounts
6 of the hazardous substance or hazardous substances which were
7 stored in the tank system prior to its closure have been removed,
8 properly disposed of, and neutralized.

9 (2) Adequately seals the tank system to minimize any threat to
10 the public safety and the possibility of water intrusion into, or
11 runoff from, the tank system.

12 (3) Provides for, and carries out, the maintenance of the tank
13 system as the local agency determines is necessary for the period
14 of time the local agency requires.

15 (4) Demonstrates to the appropriate agency, which has
16 jurisdiction over the site, that the site has been investigated to
17 determine if there are any present, or were past, releases, and if so,
18 that appropriate corrective or remedial actions have been taken.

19 SEC. 9. Section 25299 of the Health and Safety Code is
20 amended to read:

21 25299. (a) Any operator of an underground tank system shall
22 be liable for a civil penalty of not less than five hundred dollars
23 (\$500) or more than five thousand dollars (\$5,000) for each
24 underground storage tank for each day of violation for any of the
25 following violations:

26 (1) Operating an underground tank system which has not been
27 issued a permit, in violation of this chapter.

28 (2) Violation of any of the applicable requirements of the
29 permit issued for the operation of the underground tank system.

30 (3) Failure to maintain records, as required by this chapter.

31 (4) Failure to report an unauthorized release, as required by
32 Sections 25294 and 25295.

33 (5) Failure to properly close an underground tank system, as
34 required by Section 25298.

35 (6) Violation of any applicable requirement of this chapter or
36 any regulation adopted by the board pursuant to Section 25299.3.

37 (7) Failure to permit inspection or to perform any monitoring,
38 testing, or reporting required pursuant to Section 25288 or 25289.



1 (8) Making any false statement, representation, or certification
2 in any application, record, report, or other document submitted or
3 required to be maintained pursuant to this chapter.

4 (9) Tampering with or otherwise disabling automatic leak
5 detection devices or alarms.

6 (b) Any owner of an underground tank system shall be liable
7 for a civil penalty of not less than five hundred dollars (\$500) or
8 more than five thousand dollars (\$5,000) per day for each
9 underground storage tank, for each day of violation, for any of the
10 following violations:

11 (1) Failure to obtain a permit as specified by this chapter.

12 (2) Failure to repair or upgrade an underground tank system in
13 accordance with this chapter.

14 (3) Abandonment or improper closure of any underground tank
15 system subject to this chapter.

16 ~~(4) Knowing failure to take reasonable and necessary steps to~~
17 ~~assure compliance with this chapter by the operator of an~~
18 ~~underground tank system.~~

19 ~~(5) Violation of any applicable requirement of the permit~~
20 ~~issued for operation of the underground tank system.~~

21 ~~(6)~~

22 (5) Violation of any applicable requirement of this chapter or
23 any regulation adopted by the board pursuant to Section 25299.3.

24 ~~(7)~~

25 (6) Failure to permit inspection or to perform any monitoring,
26 testing, or reporting required pursuant to Section 25288 or 25289.

27 ~~(8)~~

28 (7) Making any false statement, representation, or certification
29 in any application, record, report, or other document submitted or
30 required to be maintained pursuant to this chapter.

31 (c) Any person who intentionally fails to notify the board or the
32 local agency when required to do so by this chapter or who submits
33 false information in a permit application, amendment, or renewal,
34 pursuant to Section 25286, is liable for a civil penalty of not more
35 than five thousand dollars (\$5,000) for each underground storage
36 tank for which notification is not given or false information is
37 submitted.

38 (d) (1) Any person who violates any corrective action
39 requirement established by, or issued pursuant to, Section
40 25296.10 is liable for a civil penalty of not more than ten thousand



1 dollars (\$10,000) for each underground storage tank for each day
2 of violation.

3 (2) A civil penalty under this subdivision may be imposed in a
4 civil action under this chapter, or may be administratively imposed
5 by the board or a regional board pursuant to Article 2.5
6 (commencing with Section 13323) of Chapter 5 of Division 7 of
7 the Water Code.

8 (e) Any person who violates Section 25292.3 is liable for a civil
9 penalty of not more than five thousand dollars (\$5,000) for each
10 underground storage tank for each day of violation.

11 (f) (1) Any person who falsifies any monitoring records
12 required by this chapter, or knowingly fails to report an
13 unauthorized release, shall, upon conviction, be punished by a fine
14 of not less than five thousand dollars (\$5,000) or more than ten
15 thousand dollars (\$10,000), by imprisonment in the county jail for
16 not to exceed one year, or by both that fine and imprisonment.

17 (2) Any person who intentionally disables or tampers with an
18 automatic leak detection system in a manner that would prevent
19 the automatic leak detection system from detecting a leak or
20 alerting the owner or operator of the leak, shall, upon conviction,
21 be punished by a fine of not less than five thousand dollars
22 (\$5,000) or more than ten thousand dollars (\$10,000), by
23 imprisonment in the county jail for not more than one year, or by
24 both the fine and imprisonment.

25 (g) In determining both the civil and criminal penalties
26 imposed pursuant to this section, the board, a regional board or the
27 court, as the case may be, shall consider all relevant circumstances,
28 including, but not limited to, the extent of harm or potential harm
29 caused by the violation, the nature of the violation and the period
30 of time over which it occurred, the frequency of past violations,
31 and the corrective action, if any, taken by the person who holds the
32 permit.

33 (h) Each civil penalty or criminal fine imposed pursuant to this
34 section for any separate violation shall be separate, and in addition
35 to, any other civil penalty or criminal fine imposed pursuant to this
36 section or any other provision of law, except that no civil penalty
37 shall be recovered under subdivision (d) for violations for which
38 a civil penalty is recovered pursuant to Section 13268 or 13350 of
39 the Water Code. The penalty or fine shall be paid to the treasury
40 of the local agency or state, whichever is represented by the office



1 of the city attorney, district attorney, or Attorney General bringing
2 the action. All penalties or fines collected by the board or a
3 regional board or collected on behalf of the board or a regional
4 board by the Attorney General shall be deposited in the State Water
5 Pollution Cleanup and Abatement Account in the State Water
6 Quality Control Fund, and are available for expenditure by the
7 board, upon appropriation, pursuant to Section 13441 of the Water
8 Code.

9 (i) Paragraph (9) of subdivision (a) does not prohibit the owner
10 or operator of an underground storage tank, or his or her designee,
11 from maintaining, repairing, or replacing automatic leak detection
12 devices or alarms associated with that tank.

13 SEC. 10. No reimbursement is required by this act pursuant
14 to Section 6 of Article XIII B of the California Constitution
15 because a local agency or school district has the authority to levy
16 service charges, fees, or assessments sufficient to pay for the
17 program or level of service mandated by this act, within the
18 meaning of Section 17556 of the Government Code.

