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1 IN THE HOUSE BY THE RESOURCES COMMITTEE  
2 CS FOR HOUSE BILL NO. 196 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to persons who perform work relating  
7 to petroleum and chemical storage tanks; and provid-  
8 ing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 08 is amended by adding a new chapter to read:  
11 CHAPTER 96. STORAGE TANK INSTALLERS.  
12 Sec. 08.96.010. LICENSE REQUIRED. (a) A person may not in-  
13 stall, repair, test, or close a petroleum or chemical storage tank  
14 without a license issued under this chapter.  
15 (b) A person may not offer to install, repair, test, or close a  
16 petroleum or chemical storage tank without a license issued under this  
17 chapter.  
18 (c) A person may not employ another to install, repair, test, or  
19 close a petroleum or chemical storage tank unless the person employed  
20 is a contractor licensed under AS 08.18 and the contractor or the  
21 person employed by the contractor to do the work is licensed under  
22 this chapter.  
23 (d) Violation of this section is a class A misdemeanor.  
24 Sec. 08.96.020. APPLICATION FOR LICENSE. A person desiring to  
25 be licensed under this chapter shall apply in writing to the division  
26 of occupational licensing of the Department of Commerce and Economic  
27 Development.  
28 Sec. 08.96.030. ISSUANCE OF LICENSE; RENEWAL. (a) The division  
29 shall issue a license authorizing a person to install, repair, test,

1 and close petroleum and chemical storage tanks if the applicant meets  
2 the requirements that the Department of Environmental Conservation  
3 establishes by regulation and pays the applicable fee.

4 (b) The Department of Environmental Conservation shall consult  
5 with the division when establishing requirements under (a) of this  
6 section. The requirements may include training, education, experi-  
7 ence, satisfactory performance on written, oral, or practical examina-  
8 tions, and other appropriate factors. The requirements must be de-  
9 signed to ensure that a person licensed under this chapter is quali-  
10 fied to install, repair, test, and close petroleum and chemical  
11 storage tanks in a manner that complies with regulations adopted by  
12 the Environmental Protection Agency and the Department of Environ-  
13 mental Conservation.

14 (c) A license issued under this chapter may be renewed upon  
15 satisfactory completion of continuing education requirements estab-  
16 lished by the Department of Environmental Conservation by regulation.

17 Sec. 08.96.040. FEES. The Department of Commerce and Economic  
18 Development shall set fees under AS 08.01.065 for licensing and li-  
19 cense renewal under this chapter.

20 Sec. 08.96.050. INVESTIGATIONS. The Department of Commerce and  
21 Economic Development, the Department of Environmental Conservation, or  
22 the Department of Labor may investigate alleged or apparent violations  
23 of this chapter. A department, upon showing proper credentials, may  
24 enter, during regular hours of work, a construction site where it  
25 appears that storage tank work governed by this chapter is being done.  
26 A department may make inquiries about the identity of the storage tank  
27 installer doing the work. Upon demand, a storage tank installer or  
28 that person's representative, shall produce evidence of current licen-  
29 sure.

1           Sec. 08.96.060. CEASE AND DESIST ORDER. (a) If the commissioner  
2 of commerce and economic development determines that a person is  
3 acting as a storage tank installer in violation of this chapter, the  
4 commissioner may issue a cease and desist order prohibiting further  
5 action by the person as a storage tank installer. The cease and  
6 desist order remains in effect until the person has submitted evidence  
7 acceptable to the commissioner showing that the violation has been  
8 corrected.

9           (b) A person affected by an order issued under (a) of this  
10 section may seek equitable relief preventing the commissioner of  
11 commerce and economic development from enforcing the order.

12           Sec. 08.96.070. GROUNDS FOR SUSPENSION, REVOCATION OR REFUSAL TO  
13 ISSUE A LICENSE. The division may, after a hearing, impose a disci-  
14 plinary sanction on a person licensed under this chapter when the  
15 division finds that the licensee

16           (1) secured a license through deceit, fraud, or intentional  
17 misrepresentation;

18           (2) engaged in deceit, fraud, or intentional misrepresenta-  
19 tion in the course of providing storage tank services;

20           (3) advertised storage tank services in a false or mislead-  
21 ing manner;

22           (4) has been convicted of a felony or other crime that  
23 affects the licensee's ability to continue to work competently and  
24 safely;

25           (5) failed to comply with this chapter, with a regulation  
26 adopted under this chapter, or with an order of the division.

27           Sec. 08.96.080. DISCIPLINARY SANCTIONS. (a) When it finds  
28 that a licensee under this chapter is guilty of an offense under  
29 AS 08.96.070, the division may impose the following sanctions singly

1 or in combination:

- 2 (1) permanently revoke the person's license;  
3 (2) suspend the person's license for a determinate period  
4 of time;  
5 (3) censure the licensee;  
6 (4) issue a letter of reprimand to the licensee;  
7 (5) place the licensee on probationary status and require  
8 the licensee to

9 (A) report regularly to the division upon matters  
10 involving the basis of probation;

11 (B) limit authorized activities to those areas pre-  
12 scribed by the division;

13 (C) continue professional education until a satisfac-  
14 tory degree of skill has been attained in areas determined by the  
15 division to need improvement;

16 (6) impose limitations or conditions on the licensee with  
17 respect to the installation, repair, testing, or closure of storage  
18 tanks.

19 (b) The division may withdraw probationary status of a licensee  
20 if it finds that the deficiencies that required the sanction have been  
21 remedied.

22 (c) The division may summarily suspend a license before final  
23 hearing or during the appeals process if the division finds that the  
24 licensee poses a clear and immediate danger to the public health and  
25 safety if the licensee continues to perform work related to storage  
26 tanks. A licensee whose license is suspended under this section is  
27 entitled to a hearing by the division no later than seven days after  
28 the effective date of the order. The licensee may appeal the suspen-  
29 sion after a hearing to a court of competent jurisdiction.

1           Sec. 08.96.090.   FRAUDULENT LICENSE. A person who obtains or  
2 attempts to obtain a license under this chapter by dishonest or fraud-  
3 ulent means, or who forges, counterfeits, or fraudulently alters a  
4 license is guilty of a class B misdemeanor.

5           Sec. 08.96.100.   EXEMPTION. A license is not required under this  
6 chapter if the storage tank that is installed, repaired, tested, or  
7 closed is an underground storage tank with a capacity of 550 gallons  
8 or less or an above ground storage tank with a capacity of 1,100  
9 gallons or less.

10          Sec. 08.96.900.   DEFINITIONS. In this chapter

11           (1) "chemical" means a substance defined in 42 U.S.C.  
12 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,  
13 Compensation, and Liability Act of 1980) as amended, and a substance  
14 having the characteristics identified or listed under 42 U.S.C. 6921  
15 (sec. 3001 of the Solid Waste Disposal Act), regardless of whether the  
16 substance is a solid waste;

17           (2) "close" or "closure" means to remove all petroleum and  
18 chemical liquids and sludges from an underground storage tank and to  
19 either

20                   (A) fill the tank with inert material; or

21                   (B) remove the tank from the ground;

22           (3) "division" means the division of occupational licens-  
23 ing, Department of Commerce and Economic Development;

24           (4) "petroleum" means crude oil or any fraction of crude  
25 oil that is liquid at 60 degrees Fahrenheit and 14.7 pounds per square  
26 inch absolute; "petroleum" includes petroleum-based substances com-  
27 prised of a complex blend of hydrocarbons derived from crude oil  
28 through processes of separation, conversion, upgrading, and finishing,  
29 such as motor fuels, jet fuels, distillate fuel oils, residual fuel

1 oils, lubricants, petroleum solvents, and used oils;

2 (5) "storage tank" means one or a combination of stationary  
3 devices that are designed to contain an accumulation of petroleum or  
4 chemicals; are constructed of non-earthen materials such as concrete,  
5 steel, or plastic; and provide structural support; "storage tank" in-  
6 cludes pipes or piping connected to the storage tank;

7 (6) "underground storage tank" means a storage tank, the  
8 volume of which, including the volume of underground pipes connected  
9 to it, is 10 percent or more beneath the surface of the ground.

10 \* Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

11 (31) regulation of storage tank installers under AS 08.96.

12 \* Sec. 3. AS 08.01.050(a) is amended to read:

13 (a) The department shall perform the following administrative  
14 and budgetary services when appropriate:

15 (1) collect and record fees;

16 (2) maintain records and files;

17 (3) issue and receive application forms;

18 (4) notify applicants of acceptance or rejection as deter-  
19 mined by the board or as determined by the department under AS 08.11  
20 for audiologists, under AS 08.45 for naturopaths, [OR] under AS 08.55  
21 for hearing aid dealers, or under AS 08.96 for storage tank install-  
22 ers;

23 (5) designate dates examinations are to be held and notify  
24 applicants;

25 (6) publish notice of examinations and proceedings;

26 (7) arrange space for holding examinations and proceedings;

27 (8) notify applicants of results of examinations;

28 (9) issue licenses or temporary licenses as authorized by  
29 the board or as authorized by the department under AS 08.11 for

1 audiologists, under AS 08.45 for naturopaths, [OR] under AS 08.55 for  
2 hearing aid dealers, or under AS 08.96 for storage tank installers:

3 (10) issue duplicate licenses upon submission of a written  
4 request by the licensee attesting to loss of or the failure to receive  
5 the original and payment by the licensee of a fee established by  
6 regulation adopted by the department;

7 (11) notify licensees of renewal dates at least 30 days  
8 before the expiration date of their licenses;

9 (12) compile and maintain a current register of licensees;

10 (13) answer routine inquiries;

11 (14) maintain files relating to individual licensees;

12 (15) arrange for printing and advertising;

13 (16) purchase supplies;

14 (17) employ additional help when needed;

15 (18) perform other services that may be requested by the  
16 board;

17 (19) provide inspection, enforcement, and investigative  
18 services to the boards and for the occupations listed in AS 08.01.010,  
19 regarding all licenses issued by or through the department;

20 (20) retain and safeguard the official seal of a board and  
21 prepare, sign, and affix a board seal, as appropriate, for licenses  
22 approved by a board;

23 (21) issue business licenses under AS 43.70.

24 \* Sec. 4. AS 08.18 is amended by adding a new section to read:

25 Sec. 08.18.024. STORAGE TANK INSTALLATION. (a) A contractor  
26 may not install, repair, test, or close a petroleum or chemical stor-  
27 age tank or submit a bid to do so unless the contractor or the person  
28 employed by the contractor to do the work is licensed under AS 08.96.

29 (b) This section does not apply to the installation, repair,

1 testing, or closure of an underground storage tank with a capacity of  
2 550 gallons or less or an above ground storage tank with a capacity of  
3 1,100 gallons or less.

4 (c) In this section, "chemical," "close," "petroleum," "storage  
5 tank," and "underground storage tank" have the meanings given in  
6 AS 08.96.900.

7 \* Sec. 5. This Act takes effect January 1, 1990.