

Veto No. 2006-5

HB 1195

July 11, 2006

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 1195.

I take this action because I believe that the current law more appropriately targets limited state resources to underground storage tanks that pose environmental hazards in our communities. This bill expands the purview of this program in a manner that may add little to our efforts to improve environmental quality, and may result in substantial fee increases on our service stations and other entities' assessed fees under the Storage Tank and Spill Prevention Act in connection with the Underground Storage Tank Indemnification Fund (USTIF).

Current law provides that the purpose of the USTIF is to prevent pollution by reimbursing storage tank owners for removing regulated substances from substandard underground storage tanks and sealing these tanks. Given the limited funds in the USTIF, the expansion as provided for in House Bill 1195 may cause a backlog in remediation of truly hazardous tanks.

More troublesome is the expansion of benefits under the USTIF program to retroactively increase the \$1,000,000 limit for remediation costs that was in effect until December 2001. Without revenue to support this expense there are serious financial implications for existing claimants. Identifying which tanks may be eligible and the amount of funding assigned for each tank will also be costly and, perhaps, litigious.

House Bill 1195 also removes the word "underground" from Section 710 of the Act. As a result, the bill includes aboveground heating oil storage tanks under the Underground Storage Tank Environmental Cleanup Program. The expansive new language will mean that those paying the fees to the underground tank fund could now be supporting efforts to remediate aboveground tanks that currently are not regulated, and whose owners are not contributing fees to the fund. Not only would this change require creation of an entirely new program, including significant alterations to the current administrative operations of DEP and possibly USTIF, it may have the unintended consequence of making every home fuel tank eligible for USTIF remediation resources.

The USTIF is required to assess fees in a manner that ensures that the fund is actuarially sound. Removal of funds for any purpose other than those approved when the annual actuarial review is conducted could lead to the USTIF being under-funded, potentially resulting in increased fees for underground storage tank owners and decreased funding for other programs funded at USTIF's discretion. To ensure there is no disruption in other USTIF programs, and to meet the requirements of House Bill 1195 should it

become law, the USTIF Board may have to increase assessments on gasoline and diesel fuel, which will be borne by the tank owners, operators, installers and, ultimately, the public through increased fuel costs. As gas prices are extremely unstable, I cannot in good conscience sign this legislation, which will potentially drive the price of fuel even higher.

For the reasons set forth above, I am withholding my signature from House Bill 1195.

EDWARD G. RENDELL