

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 626 (Papan) – As Introduced February 13, 2025

SUBJECT: Underground storage tanks: design and construction requirements: exemption

SUMMARY: Establishes a process for an operator of a single-walled underground storage tank (UST) to seek an enforcement waiver for specified requirements if the operator of the UST can show they made a good faith effort to comply with the UST requirements. Specifically, **this bill:**

- 1) Provides that the operator of a single-walled UST, who is acting in good faith to comply with the requirements to remove the single-walled UST by December 31, 2025, is not subject to penalties for not meeting this deadline if the following conditions are met:
 - a) The operator of the UST has submitted a complete application for all necessary permits to upgrade or replace the single-walled UST no later than December 31, 2025;
 - b) The operator has demonstrated to the satisfaction of the local enforcement agency that delays in obtaining the required permits are beyond the operator's control and are due to circumstances, including, but not limited to, administrative backlogs, incomplete reviews, or other permitting-related delays; and,
 - c) The operator continues to operate the single-walled UST in compliance with all other applicable requirements, including leak detection and secondary containment measures, to minimize environmental risks during this grace period.
- 2) Requires an operator, seeking relief pursuant to this bill, to submit a written request to the local enforcement agency, including documentation of good-faith efforts to comply and evidence of delays. Requires the local enforcement agency to review the request and issue a determination within 60 days of receipt of the request.

EXISTING LAW:

- 1) Requires, by December 31, 2025, the owner or operator of a UST to permanently close that UST if the UST does not meet certain requirements in state law and regulation. (Health and Safety Code (HSC) § 25292.05)
- 2) Creates, under the authority of the State Water Resources Control Board (State Water Board) the Barry Keene Underground Storage Tank Cleanup Trust Fund Act (UST Act) and Underground Storage Tank Cleanup Trust Fund (USTCTF), until January 1, 2036, to help owners and operators of petroleum USTs satisfy federal and state financial responsibility requirements. (HSC § 25299.10)
- 3) Requires every owner and operator of a UST to establish and maintain evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage arising from operating a UST. (HSC § 25299.31)

- 4) Authorizes a claimant under the USTCTF, who meets specified requirements, to use the USTCTF to establish and maintain evidence of financial responsibility. (HSC § 25299.32)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author,

"Assembly Bill (AB) 626 addresses the issue of permit processing delays from the State Water Resources Control Board (SWRCB) and ensures that responsible tank owners are not unfairly penalized.

Despite their best efforts to meet the December 31, 2025 deadline for upgrading to double-walled underground storage tanks (USTs), many tank owners are facing significant delays in the permitting process, which are preventing them from meeting compliance requirements. AB 626 provides a much-needed grace period for operators who can demonstrate they have submitted the necessary documents for approval so they may continue serving their communities. This bill protects responsible tank owners from unfair penalties, including the prohibition of selling or dispensing fuel and a \$5,000 daily fine for issues beyond their control as they work to comply with the law.

AB 626 is not a blanket extension; it includes clear criteria that must be met for an operator to qualify for the grace period. With some of the lowest gas station per capita rates in the nation, losing more gas stations would further drive up fuel prices and put additional strain on consumers. AB 626 offers a necessary solution to support both small businesses and California's energy stability while maintaining affordability for consumers."

UST Act: The UST Act created the USTCTF to help owners and operators of petroleum USTs satisfy federal and state financial responsibility requirements. A UST is defined by law (HSC § 25299.32) as "any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and that is substantially or totally beneath the surface of the ground" (certain exceptions apply). The USTCTF is available to assist petroleum UST owners and operators with the costs of cleaning up contaminated soil and groundwater caused by leakage from petroleum USTs.

The USTCTF has been a critical resource for both cleaning up immediate impacts of UST releases, and preventing significant migration of petroleum products in groundwater and soil. The USTCTF benefits numerous small, medium, and large businesses, and individuals by providing reimbursement for expenses associated with the cleanup of leakage from petroleum USTs. The USTCTF not only helps increase leaking UST site cleanup rates, but encourages current owners and operators to comply with necessary UST leak-prevention requirements to qualify for reimbursement. Existing law requires single-walled USTs to be removed by December 31, 2025.

Closure of Single-Walled Tanks: A single-walled UST is either the tank and/or the connected piping that does not have secondary containment and a continuous leak detection system. Senate Bill (SB) 445 (Hill, Chapter 547, Statutes of 2014) changed the UST regulatory program

regarding design and construction of USTs by requiring the owner or operator to permanently close the single-walled UST on or before December 31, 2025.

This bill: AB 626 establishes a process for an operator of a single-walled UST to seek a waiver of enforcement of specified requirements if the operator of the UST can show they made a good faith effort to comply with the UST requirements.

Amendments to this bill: The author of AB 626 has been working to clarify a few aspects of the bill. Specifically amendments will:

- 1) Change the deadline that an operator of a single-walled UST has submitted all necessary permits for removing or upgrading the UST from December 31, 2025 to September 30, 2025;
- 2) Require the operator of a single-walled UST seeking relief under the bill to submit a written request to the local enforcement agency by September 30, 2025;
- 3) Require the local enforcement agency to provide a determination as to whether or not the relief from enforcement will be granted to both the UST operator and the State Water Board; and,
- 4) Add an urgency clause, so that the bill will take effect immediately upon being signed by the Governor.

Arguments in Support: According to the California Fuels and Convenience Alliance, "This bill provides a critical grace period for underground storage tank (UST) operators who have made a good faith effort to comply with the single-walled tank phase-out deadline but face unavoidable delays due to factors beyond their control, such as excessive permitting backlogs.

California businesses have worked diligently to comply with the regulatory transition away from single-walled USTs, investing significant time and financial resources to upgrade their infrastructure. However, despite their best efforts, many operators have encountered unexpected delays, particularly due to prolonged permitting processes at the local level. These bureaucratic obstacles are not within the control of business owners, yet failure to meet the deadline results in severe penalties, operational shutdowns, and financial distress for small businesses that are vital to California's fuel supply chain.

AB 626 provides a fair and reasonable solution by allowing a grace period for tank operators who can demonstrate they have made a good faith effort to comply but are being held up by factors outside of their control."

Arguments in Opposition:

None on file.

Related legislation:

- 1) AB 1115 (Papan, Chapter 561, Statutes of 2023). Extends the provisions of the UST Act and the USTCTF to January 1, 2036.

- 2) AB 753 (Grayson, 2021). Would have extended the USTCTF to January 1, 2031. Would have required the State Water Board to, on or before January 1, 2024, report to the Legislature, at the conclusion of a stakeholder study, recommendations for revising the eligibility criteria and funding priorities of the USTCTF in order to clean-up contaminated properties that could be used for affordable housing. This bill was held on the suspense file in the Senate Appropriations Committee.
- 3) SB 445 (Hill, Chapter 547, Statutes of 2014). Extended the State Water Board program for the clean-up of USTs from 2016 to 2020.
- 4) AB 282 (Wieckowski, 2014). Would have extended the sunset date of the UST Cleanup Program from 2016 until 2018, and would have extended the sunset of a \$0.006 surcharge on petroleum stored in USTs from 2014 until 2016. This bill was held on suspense file in the Senate Appropriations Committee.
- 5) AB 120 (Committee on Environmental Safety and Toxic Materials, Chapter 635, Statutes of 2013). Required the State Water Board to waive a provision in existing law that requires a school district to have continuously maintained a permit for their underground storage tanks in order to qualify for funding from the UST Cleanup Fund School District Account, if the school district meets certain conditions.
- 6) AB 291 (Wieckowski, Chapter 569, Statutes of 2011). Extended for two years a temporary fee paid per gallon on motor vehicle fuel that the owner of an UST must pay, from 1.4 mils to 2 mils per gallon through January 1, 2014.
- 7) AB 358 (Smyth, Chapter 571, Statutes of 2011). Streamlined the State Water Board process for completing the clean-up of USTs by establishing authority for the State Water Board to close sites overseen by local government as part of the State Water Board's existing five-year review process.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Fuels and Convenience Alliance
Rural County Representatives of California

Opposition

None on file

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