Comparison of SB 373 Amendments to Water Resources Protection Act, versus Gov. Tomblin’s AST bill

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| Provisions | SB 373 (Unger, et al.) | Tomblin’s AST Bill |
| Definitions of “Tank” | Any tank >1100 Gal | Tanks > 1100 Gal, but with numerous exemptions:Excludes gas pipelines and gathering lines, surface impoundments, pits ponds or lagoons, flow-through process tanks, tanks regulated under other existing Acts, mobile tanks (staying less than 30 days in one location), tanks used to store brines or chemicals under SCMRA, Horizontal Well Control Act, tanks at sites with individual NPDES permits, tanks at solid waste facilities, and tanks excluded by DEP rule. Also exempts “nonoperational tanks, and tanks outside critical zone |
| Source Water Protection | Not addressed | DEP implements source water protection plans developed by local water utility. Plan to include contingency plan for contamination, alternate water supplies, management plan and surveys of ZCC, and public notification plan. Utilities pay fees to Industrial AST Fund |
| DEP Rules and Standards | Requires AST permit, tank performance standards, leak detection system, testing, reporting releases, and taking corrective action, closure requirements, certification by PE, permit application and registration fees,  | Fees from AST owners, AST registration with DEP, inspections of leak detection and AST integrity, reporting and corrective actions for releases, construction standards, methods for closure and removal, Financial responsibility requirements, secondary containment standards, and volumes of regulated materials to be regulated. |
| Create Funds? | Not addressed | Establishes Leaking IAST Response Fund, |
| Confidential Information | Not addressed | DEP to develop rules, applicant can request CBI.  |
| Enforcement | DEP may assess civil penalties and order corrective action | DEP may revoke registration, assess civil penalties, recover costs, and order corrective action. |
| Tank registration | Requires tank registration and inventory by DEP, Requires a permit for AST | Unlawful to use or deliver to an unregistered tank. |
| Inspections | Requires initial inspection by PE | Requires annual inspection by PE |
| Spill Prevention | Not addressed | Detailed Response Plan required |
| Public notification | Not addressed | Notice to water supply system, municipality and county within 25 miles., Public access to info via FOIA, but data submitter may request CBI. In case of danger, DEP shall provide immediate notice to municipal and public water system. |
| DEP Authority | Grants DEP authority to enter, sample, review records and take corrective action. | Grants DEP authority to enter, sample, review records and take corrective action. |
| Penalties | Civil penalties | Civil and criminal penalties |
| Other Provisions | Adopts and Improves State Water Resources Plan, Provides for continued stream gauge funding | Triennial report to Legislature |
| OtherGaps |  | Does not specify who in DEP will administer this program. |
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WV Sierra Club