

Legislative Spotlight: Residential Oil Spills

The following piece was co-written by Sen. Resor & Susan Crane, an environmental attorney & Sudbury resident. It ran as an Op-Ed in several local papers.

Of all the nasty surprises that can await Massachusetts homeowners, one of the most devastating is to find contamination by leaks and spills of home heating oil. Every year, hundreds of Massachusetts homeowners discover that fuel oil from their heating systems has leaked into a basement or the soil and groundwater surrounding their home.

Maybe the spills come from a sloppy delivery job; overfilling can result in an oily basement or contaminated soil. Maybe the leaks come from deteriorated and worn out heating oil lines or frail leaky tanks.

In any case, the damage is often extensive and pervasive. The fumes can make indoor air unsafe. Children can be exposed to harmful contaminants in surface soil. Wells, ponds, streams, and wetlands can be impacted.

Not only are homeowners legally responsible for what can be a very costly cleanup, but they are usually surprised to learn that most homeowners' insurance policies do not cover claims such as these.

With cleanup costs averaging \$50,000 when both soil and groundwater are affected, and some sites costing hundreds of thousands of dollars to remediate, a comprehensive cleanup is beyond the economic reach of many homeowners.

When insurance coverage is denied, alternative sources of financing are hard to come by. The Massachusetts Department of Environmental Protection's very limited cleanup funds will only be used to address emergency conditions. Conventional mortgages are often not an option for homeowners whose primary asset is contaminated property.

The lives of many homeowners have been significantly disrupted by fuel oil spills. Some families have been forced to vacate their homes

during the cleanup of their properties and find alternative housing. Others face extreme financial hardship, depleting life savings or college funds to pay for the oil removal and restoration of their properties.

One older couple in the Metrowest worries daily about the impact their extensive soil and groundwater remediation project will have on the drinking water wells in their neighborhood. Their basement is now an excavation site for soil removal, and their garden has been transformed into a construction zone. The leak was caused by a corroded fuel oil supply line under their basement floor that ruptured silently before the oil release was ever noticed. A covered replacement line would have entirely prevented the problem.

In another town nearby, an elderly man looks forward to the day his cleanup is completed so that he can market and sell his single-family home and move into more suitable senior housing. After insurance coverage was denied for his six figure cleanup, his children stepped in to foot the bill. His problem was caused by a leaking oil storage tank.

Five years ago, a group of concerned professionals representing homeowners, lenders, environmentalists, business and commercial interests, and heating oil dealers formed a working group to study this problem in depth. They developed a proposed solution, now in the form of Massachusetts Senate Bill 538 currently pending on Beacon Hill. The bill recently received a favorable reported from the Committee on Environment, Natural Resources & Agriculture, and has a good chance of being enacted into law during this legislative session.

This bill will require Massachusetts homeowners with oil heating systems to undertake proactive measures to prevent fuel lines from leaking before disaster strikes.

Homes with fuel systems installed since 1990 typically already have these protections, but most older homes do not. The measures are not costly especially when balanced against the potential catastrophic cleanup costs. Few homeowners are currently even aware of the risks posed by a fuel oil system without these devices in place.

Once a homeowner has completed these system improvements, they will become eligible for reasonably priced insurance covering potential cleanup costs. The bill also requires Massachusetts homeowners' insurers to cover the costs, up to certain policy limits, of investigating and cleaning up home heating oil releases. As an additional financing mechanism, fuel oil cleanup costs would qualify for municipal betterment funds, which function as a loan from one's town or city.

If passed, the bill will help prevent a huge number of the residential oil spills in this State. For those releases that still do occur, the bill offers a practical means to pay for a prompt cleanup and provide a financial safety net to homeowners.

Senate Bill 538 filed by Sen. Resor has received broad-based support several groups, including the Massachusetts Department of Environmental Protection, the fuel oil industry, environmental non-profit organizations, waste site cleanup professionals, the Boston Bar Association's environmental section and the Massachusetts Municipal Association.

The bill crafts an intelligent and practical solution for the protection of our natural environment and for the health, safety, welfare and financial well-being of Massachusetts citizens. Before disaster strikes again, we should do what we can to prevent these problems and offer homeowners a viable financial solution when home oil spills do occur.

Pamela P. Resor is a Massachusetts State Senator from Acton. She is the Senate chair of the Joint Committee on Environment, Natural Resources and Agriculture. Sen. Resor is the bill's key sponsor.

Susan J. Crane is an environmental lawyer who resides and works in Sudbury. She has represented numerous homeowners with fuel oil releases on their properties. Ms. Crane is a member of the work group that evaluated the problem and drafted the bill.