

## LSPA Fact Sheet September 2017

### Massachusetts Senate Bill 534: An Act relative to the remediation of home heating oil releases

#### **What Is The Issue?**

There are nearly 750,000<sup>1</sup> Massachusetts homes<sup>2</sup> heated by oil and most of those home heating oil users are not covered by insurance, due to a flaw in the existing law. Only approximately 39,000<sup>3</sup> homeowners (5% of all homes heated with oil) have specialized liquid fuel release coverage.

Licensed Site Professionals (LSPs), attorneys, state regulators, and the LSP Association (LSPA) hear regularly from homeowners who are overwhelmed and desperate about how they will afford to clean up their properties to meet the requirements of Massachusetts environmental regulations.

#### **Why Are These Homeowners Not Covered?**

Although Massachusetts has a law on this issue, MGL c. 175, sec. 4D “*Coverage to be made available to residential owners for release of heating oil*”<sup>4</sup>, insurance options for releases from home heating oil tanks are limited and confusing. Current law requires insurers to “**make ... available**” insurance for heating oil releases but does not require insurers to inform homeowners about the coverage. If a homeowner asks for coverage it can be provided but the homeowner must opt in.

The current cost to homeowners for spill cleanup insurance is under \$100 per year.

Most homeowners are unaware of this insurance and, as a result, can get caught without coverage when their tank leaks or has a spill. If this occurs and they do not have insurance coverage, it is too late for them. They must pay for the cleanup from their savings or from loans, if they can be obtained.

The Massachusetts Department of Environmental Protection (MassDEP) has noted a decline in homeowner insurance coverage for home heating oil releases in the past five

<sup>1</sup> <https://www.mass.gov/service-details/how-massachusetts-households-heat-their-homes>

<sup>2</sup> As of Dec. 2015 there were 2.5 million households in the state, <https://www.census.gov/quickfacts/MA>

<sup>3</sup> MassDEP June 5, 2017 “Report to the Joint Committee on Environment, Natural Resources and Agriculture”

<sup>4</sup> <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter175/Section4D>

years<sup>5</sup> and, for a high percentage of these residential fuel oil releases, homeowners are unable to pay for the cleanups.

### **How Common Are These Spills?**

MassDEP noted that there were 124 residential home heating oil spills reported in Massachusetts in 2016.<sup>6</sup>

Cleanup costs can range from \$20,000 to \$50,000 for simple releases, to more than \$300,000 for complex releases that impact both soil and groundwater.<sup>7</sup>

### **What Can We Do To Fix This Loophole?**

One small change will fix the current law.

The LSPA ([www.lspa.org](http://www.lspa.org)) has authored legislation to enhance the current law by **requiring** that coverage be provided to all homeowners and raising coverage limits to keep pace with rising remediation costs. The LSPA's bill is sponsored by Senator Anne Gobi of Spencer, Senate Chair of the Joint Committee on Environment, Natural Resources, and Agriculture.

By supporting Senate Bill 534, you may help prevent homeowners from going bankrupt or funding the environmental cleanups with their retirement funds, children's college funds, or all of their life's savings. Some homeowners have no means whatsoever to pay for a cleanup and are left with an environmentally impaired and potentially unsafe property.

The LSPA urges you to support Senate Bill 534: ***An Act relative to the remediation of home heating oil releases*** <https://malegislature.gov/Bills/190/S534>

For more information go to [www.lspa.org](http://www.lspa.org) or contact us at [info@lspa.org](mailto:info@lspa.org).

Provided on the next page are two recent examples of the extent of cleanups and costs: one owner did not have cleanup insurance; the other one had it in place after actively requesting it from their insurer.

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<sup>5</sup> MassDEP June 5, 2017 "Report to the Joint Committee on Environment, Natural Resources and Agriculture"

<sup>6</sup> MassDEP June 5, 2017 "Report to the Joint Committee on Environment, Natural Resources and Agriculture"

<sup>7</sup> <http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/homeowner-oil-spill-cleanup-guide.html>

## Two Cases of Home Heating Oil Releases, Cleanup Actions, and Costs



**Case Study 1:** Release of 240 gallons of fuel oil from outdoor tank. Cleanup of soil and groundwater resulted in more than \$300,000 in cleanup costs. The homeowner does not have insurance coverage for this release.



**Case Study 2:** Release of 150 gallons of heating oil to earthen crawlspace beneath home on Cape Cod. The resulting cleanup costs for contaminated soil removal, groundwater treatment, and moving the home to excavate impacted soil cost more than \$200,000. The homeowner had insurance that covered all but \$10,000 of the work.