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SENATE BILL 6557

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State of Washington

61st Legislature

2010 Regular Session

By Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser, and Kline; by request of Department of Ecology and Puget Sound Partnership

Read first time 01/18/10. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to limiting the use of certain substances in brake  
2 friction material; adding a new chapter to Title 70 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Brake friction materials are an essential component of motor  
7 vehicle brakes systems and critically important to transportation  
8 safety and public safety in general;

9 (2) Debris from brake friction materials containing copper and its  
10 compounds is generated and released to the surrounding environment  
11 during normal operation of motor vehicle brakes;

12 (3) Thousands of pounds of copper and other substances released  
13 from brake friction material enter Washington state's streams, rivers,  
14 and marine environment every year; and

15 (4) Copper is toxic to many aquatic organisms in both marine and  
16 freshwater environments, and impairs the sensory systems of salmon,  
17 reducing their ability to elude predators and hindering their return to  
18 spawning streams.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "After-market brake friction material" means brake friction  
4 material not sold with newly manufactured vehicles.

5        (2) "Alternative brake friction material" means brake friction  
6 material that:

7            (a) Does not contain more than 0.5 percent copper or the  
8 constituents identified in section 4 of this act at the concentrations  
9 specified;

10           (b) Enables motor vehicle brakes to meet motor vehicle safety  
11 standards for new motor vehicle brakes specified in Title 49 of the  
12 code of federal regulations;

13           (c) Is available at a cost and quantity to enable brake friction  
14 material manufacturers to produce economically viable products; and

15           (d) Is available to enable brake friction material manufacturers to  
16 produce viable products to meet consumer acceptance performance  
17 standards.

18        (3) "Brake friction material" means that part of a motor vehicle  
19 brake designed to retard or stop the movement of a motor vehicle  
20 through friction against a rotor made of more durable material.

21        (4) "Department" means the department of ecology.

22        (5) "Motor vehicle" has the same meaning as defined in RCW  
23 46.04.320.

24        (6) "Motor vehicle brake" means an energy conversion mechanism used  
25 to retard or stop the movement of a motor vehicle.

26        (7) "Testing agency" means an agency approved by the department as  
27 qualified and equipped for the testing of products, materials,  
28 equipment, and installations in accordance with nationally recognized  
29 standards.

30        NEW SECTION.    **Sec. 3.**    (1) Beginning January 1, 2015, after-market  
31 brake friction material exceeding five percent copper and its compounds  
32 by weight may not be sold in Washington state.

33        (2) Beginning January 1, 2020, new vehicles with brake friction  
34 material exceeding five percent copper and its compounds by weight may  
35 not be sold in Washington state.

1        NEW SECTION.    **Sec. 4.**    (1) Beginning January 1, 2014, brake  
2 friction material containing any of the following constituents in an  
3 amount exceeding the specified concentrations may not be sold in  
4 Washington state:

- 5        (a) Asbestiform fibers, 0.1 percent by weight.
- 6        (b) Cadmium and its compounds, 0.01 percent by weight.
- 7        (c) Chromium(VI)-salts, 0.1 percent by weight.
- 8        (d) Lead and its compounds, 0.1 percent by weight.
- 9        (e) Mercury and its compounds, 0.1 percent by weight.

10       (2) By January 1, 2013, and at least every three years thereafter,  
11 brake friction material manufacturers shall provide to the department  
12 data adequate to determine the concentration of antimony, copper,  
13 nickel, and zinc and their compounds in brake friction material. Using  
14 that data and other data as needed, the department must establish  
15 baseline concentrations for those constituents in brake friction  
16 material by July 1, 2013. The department will use data provided by  
17 manufacturers to track progress toward reducing the use of copper and  
18 its compounds and to ensure that concentrations of antimony, nickel, or  
19 zinc and their compounds do not increase by more than fifty percent  
20 above baseline levels.

21       (3) If data provided by manufacturers indicates that the  
22 concentration level of antimony, nickel, or zinc and their compounds  
23 has increased by more than fifty percent above baseline levels, the  
24 department shall review scientific studies to determine the potential  
25 impact of the constituent on human health and the environment. If the  
26 department determines that scientific studies demonstrate the need for  
27 controlling the use of antimony, nickel, or zinc and their compounds in  
28 brake friction material, the department shall prioritize the presence  
29 of the constituent in brake friction material for future regulation.

30       NEW SECTION.    **Sec. 5.**    (1) By December 1, 2020, the department  
31 shall review risk assessments, scientific studies, and other relevant  
32 analysis regarding the availability of alternative brake friction  
33 material containing no more than 0.5 percent copper and its compounds  
34 and determine whether such alternative brake friction material may be  
35 available.

36       (2) If the department finds that alternative brake friction

1 material containing no more than 0.5 percent copper and its compounds  
2 may be available, it shall convene a brake friction material advisory  
3 committee consisting of but not limited to:

4 (a) A representative of the department, who will chair the  
5 committee;

6 (b) The chief of the Washington state patrol, or the chief's  
7 designee;

8 (c) A representative of manufacturers of brake friction material;

9 (d) A representative of manufacturers of motor vehicles;

10 (e) A representative of a nongovernmental organization concerned  
11 with motor vehicle safety;

12 (f) A representative of the national highway traffic safety  
13 administration; and

14 (g) A representative from a nongovernmental organization concerned  
15 with the environment.

16 (3) If convened, the brake friction material advisory committee  
17 shall assess alternative brake friction materials containing no more  
18 than 0.5 percent copper and its compounds. Following an assessment,  
19 the committee must recommend to the department whether an alternative  
20 brake friction material is available. Considering recommendations from  
21 the committee, the department will make a finding whether an  
22 alternative brake friction material is available.

23 (a) If the department finds that alternative brake friction  
24 materials are available, then brake friction material exceeding 0.5  
25 percent copper and its compounds by weight may not be sold in  
26 Washington state after January 1, 2025.

27 (b) If the department decides that an alternative brake friction  
28 material is not available, the department shall comply with section 6  
29 of this act.

30 (4) By December 1, 2021, the department shall provide a report to  
31 the legislature documenting its findings and the recommendations of the  
32 brake friction material advisory committee. The report must also  
33 include any additional evidence of potential harm posed by copper and  
34 its compounds in the environment.

35 NEW SECTION. **Sec. 6.** (1) If the brake friction material advisory  
36 committee recommends, pursuant to section 5 of this act, that an  
37 alternative brake friction material containing no more than 0.5 percent

1 copper and its compounds is not available, the department shall  
2 periodically evaluate the finding. If, following a new evaluation, the  
3 department finds that an alternative brake friction material may be  
4 available, it shall reconvene a brake friction material advisory  
5 committee to conduct an assessment as described in section 5 of this  
6 act.

7 (2) If the department, in consultation with the brake friction  
8 material advisory committee finds that an alternative brake friction  
9 material is available, the department shall report the finding to the  
10 legislature by December 1st of the year in which it makes the finding.  
11 Beginning five years after the report submittal date but no earlier  
12 than January 1, 2025, brake friction material exceeding 0.5 percent  
13 copper and its compounds by weight may not be sold in Washington state.

14 NEW SECTION. **Sec. 7.** The following motor vehicle classes and  
15 brakes are exempt from this chapter:

- 16 (1) Military combat vehicles;  
17 (2) Vehicles employing internal closed oil immersed motor vehicle  
18 brakes or a similar brake system that is fully contained and emits no  
19 debris or fluids under normal operating conditions; and  
20 (3) Motor vehicle brakes designed for the primary purpose of  
21 holding vehicles stationary and not for use while vehicles are in  
22 motion.

23 NEW SECTION. **Sec. 8.** (1) By December 1, 2012, the department  
24 must, after consulting with interested parties, develop criteria for  
25 certifying compliance with the requirements of this chapter and marking  
26 proof of certification on brake friction material.

- 27 (2) Beginning January 1, 2015:  
28 (a) Manufacturers of brake friction material offered for sale in  
29 Washington state must obtain, from a testing agency, certification of  
30 compliance with the requirements of this chapter as they take effect  
31 pursuant to sections 3 and 4 of this act and mark proof of  
32 certification on the brake friction material; and  
33 (b) Retailers of brake friction material must ensure that they only  
34 offer for sale in Washington state brake friction material certified to  
35 be compliant with the requirements of this chapter.

1 (3) Beginning January 1, 2020, manufacturers of new motor vehicles  
2 offered for sale in Washington state must ensure that the motor  
3 vehicles are equipped with brake friction material certified to be  
4 compliant with the requirements of this chapter.

5 NEW SECTION. **Sec. 9.** (1) A violator of this chapter is subject to  
6 a civil fine of up to ten thousand dollars per day per violation. A  
7 violation of this chapter includes, but is not limited to, the sale of  
8 motor vehicles with brake friction material that does not comply with  
9 this chapter and falsifying certification of compliance with this  
10 chapter.

11 (2) The department shall enforce this chapter.

12 NEW SECTION. **Sec. 10.** The department may adopt rules to implement  
13 this chapter.

14 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act  
15 constitute a new chapter in Title 70 RCW.

16 NEW SECTION. **Sec. 12.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

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