

SENATE BILL REPORT

ESB 5746

AS PASSED SENATE, JANUARY 31, 1992

Brief Description: Modifying requirements for compliance with environmental protection measures.

SPONSORS: Senators Barr, Hansen, Owen, Hayner, McMullen, Anderson, Newhouse, Oke, Patterson, Thorsness, Rasmussen and Vognild.

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Majority Report: Do pass.

Signed by Senators Metcalf, Chairman; Oke, Vice Chairman; Amondson, Barr, Conner, Snyder.

Staff: Gary Wilburn (786-7453)

Hearing Dates: February 20, 1991; February 28, 1991

BACKGROUND:

The Department of Ecology and local air pollution control authorities administer programs to limit emissions of air contaminants in the state. Program elements include review and approval of plans to construct new stationary sources of emissions, and modifications of existing sources. Emission limitations apply to a wide variety of stationary sources. Additionally, programs address outdoor burning, agricultural burning, and forest debris burning.

Enforcement measures under the state's air quality laws include notices of violation, orders requiring corrective action, administrative hearings regarding alleged violations, judicial injunctions against violations, judicial and administrative civil penalties, and criminal penalties. Local air authorities are provided general direction to seek voluntary cooperation in achieving air quality compliance.

The Department of Ecology also administers a permit program to track the generation, transportation and disposal of hazardous wastes, and maintains state primacy for administering the equivalent federal requirements. Under this program the department has adopted regulations governing the handling of hazardous wastes at the site of their generation, to ensure protection of public health and the environment. Requirements include reporting, monitoring, recordkeeping, labeling, and sampling requirements, and the department is authorized to enter facilities for inspection, monitoring and sampling.

The department is directed to render technical assistance to generators of hazardous waste and is granted a variety of enforcement methods with respect to violations of hazardous

waste laws and regulations. The department may issue an order requiring compliance immediately or within a specified period of time. Failure to take corrective action as required by the order may subject the violator to a civil penalty of up to \$10,000 per day of violation, as well as permit suspension or revocation.

The department may at the time of violation administratively impose civil penalties of up to \$10,000 per day, and certain violations may be subject to criminal penalties. The department may also request the Attorney General to seek injunctive or other judicial actions against hazardous waste violations. Both administrative civil penalties and compliance orders are appealable to the Pollution Control Hearings Board.

SUMMARY:

The Department of Ecology may designate one or more employees as a technical assistance officer, and organize them into one or more technical assistance units. Their duties are to provide technical assistance for the voluntary compliance with regulatory laws administered by the department.

Such officers do not have authority to issue orders or assess penalties during such designation. Requests for technical assistance are to be kept confidential by the assistance unit. When providing on-site consultation at a facility and a violation of law is observed, they shall inform the facility owner or operator. On-site consultations may not be regarded as inspections or investigations and no citations may be issued or penalties assessed during such a visit.

However, violations observed must be reported to the department's appropriate officers, and if the violation is not corrected within a reasonable time, the department may reinspect and take enforcement action. Immediate enforcement action may be taken if the violation places a person in substantial bodily harm or is likely to cause physical property damage of more than one thousand dollars.

The state, department and its employees are not liable where the assertion of liability arises from technical assistance duties or the failure to supply technical assistance.

Appropriation: none

Revenue: none

Fiscal Note: requested February 18, 1991

TESTIMONY FOR:

Provides for greater compliance with hazardous waste requirements by extending technical assistance on a nonenforcement, voluntary basis.

TESTIMONY AGAINST: None

TESTIFIED: Gene Krause, Independent Bus. Assn. (pro); Larry Penberthy (pro); Tom Eaton, Dept. of Ecology