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ENGROSSED SENATE BILL 5746

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State of Washington                      52nd Legislature                      1991 Regular Session

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

Read first time February 19, 1991.      Referred to Committee on Environment & Natural Resources.

1            AN ACT Relating to encouraging compliance with environmental  
2 protection measures; and adding new sections to chapter 43.21A RCW.

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

4            NEW SECTION.    **Sec. 1.**            The department, to the greatest extent  
5 possible, within available resources and without jeopardizing the  
6 department's ability to carry out its legal responsibilities, may  
7 designate one or more of its employees as a technical assistance  
8 officer, and may organize the officers into one or more technical  
9 assistance units within the department.    The duties of a technical  
10 assistance officer are to coordinate voluntary compliance with the  
11 regulatory laws administered by the department and to provide technical  
12 assistance concerning compliance with the laws.

13            NEW SECTION.    **Sec. 2.**            An employee designated by the department  
14 as a technical assistance officer or as a member of a technical

1 assistance unit may not, during the period of the designation, have  
2 authority to issue orders or assess penalties on behalf of the  
3 department. Requests for technical assistance shall be kept  
4 confidential by the technical assistance unit. Such an employee who  
5 provides on-site consultation at an industrial or commercial facility  
6 and who observes violations of the law shall inform the owner or  
7 operator of the facility of the violations. On-site consultation  
8 visits by such an employee may not be regarded as inspections or  
9 investigations and no notices or citations may be issued or civil  
10 penalties assessed during such a visit. However, violations of the law  
11 must be reported to the appropriate officers within the department. If  
12 the owner or operator of the facility does not correct the observed  
13 violations within a reasonable time the department may reinspect the  
14 facility and take appropriate enforcement action. If a technical  
15 assistance officer or member of a technical assistance unit observes a  
16 violation of the law that places a person in danger of death or  
17 substantial bodily harm, or has caused or is likely to cause physical  
18 damage to the property of others in an amount exceeding one thousand  
19 dollars, the department may initiate enforcement action immediately  
20 upon observing the violation.

21 NEW SECTION. **Sec. 3.** Notwithstanding any other provision of  
22 sections 1 and 2 of this act, neither the state, the department, nor an  
23 officer or employee of the state is liable in damages to a person to  
24 the extent that the liability is asserted to arise from the performance  
25 by technical assistance officers of their duties, or where the  
26 liability is asserted to arise from the failure of the department to  
27 supply technical assistance.

1        NEW SECTION.    **Sec. 4.**        Sections 1 through 3 of this act are  
2 each added to chapter 43.21A RCW.