

FINAL BILL REPORT

SSB 5404

C 326 L 93

SYNOPSIS AS ENACTED

Brief Description: Allowing a private right of action under the model toxic control act.

SPONSORS: Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser and Barr)

SENATE COMMITTEE ON ECOLOGY & PARKS

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

BACKGROUND:

The Model Toxics Control Act (MTCA) was adopted by the voters as Initiative 97 in November 1988. The purpose of the act is to raise sufficient funds to clean up hazardous waste sites and to prevent creation of future hazards due to improper disposal of toxic wastes into the state's land and water.

The state Supreme Court has ruled that a party who incurs costs in the cleanup of a hazardous waste site does not have the right to seek contribution from other responsible parties under MTCA.

SUMMARY:

Parties involved in the cleanup of a site contaminated with hazardous substances may bring a claim for contribution or for declaratory relief for recovery of remedial costs under MTCA. Remedial action costs may include cleanup and investigation costs. The recovery of remedial action costs is based on the cost of a comparable Department of Ecology conducted or supervised remedial action. Natural resource damages may also be recovered. Recovery costs are based on equitable factors as the court determines. Remedial action costs include reasonable attorney fees and expenses.

Parties may bring an action for contribution after remedial action costs are incurred. The action must be brought within three years of the cleanup action or within one year of this act. All cleanup activities for which contribution is sought must meet the standards for hazardous waste cleanup as established by rule by the Department of Ecology. The prevailing party in a contribution action shall recover reasonable attorney fees and costs.

The act applies both retroactively and prospectively. The act contains a severability clause.

VOTES ON FINAL PASSAGE:

Senate	43	4	
House	97	0	(House amended)
Senate	40	1	(Senate concurred)

EFFECTIVE: May 12, 1993