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**SUBSTITUTE HOUSE BILL 1597**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Environmental Affairs (originally sponsored by Representatives Rust, Horn, Flemming and J. Kohl)

Read first time 02/15/93.

1 AN ACT Relating to correction of the model toxics control act to  
2 confirm the availability of a private right of action or right of  
3 contribution; adding a new section to chapter 70.105D RCW; creating a  
4 new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.105D  
7 RCW to read as follows:

8 Except as provided in RCW 70.105D.040(4)(d), a person may bring a  
9 private right of action, including a claim for contribution or for  
10 declaratory relief, against another person liable under RCW 70.105D.040  
11 for the recovery of remedial action costs. Natural resource damages  
12 paid to the state under this chapter may also be recovered in the  
13 action. Recovery shall be based on such equitable factors as the court  
14 determines are appropriate and shall include the prevailing party's  
15 reasonable attorneys' fees. Recovery of remedial action costs shall be  
16 limited to those remedial actions that, when evaluated as a whole, are  
17 the substantial equivalent of a department-conducted or department-  
18 supervised remedial action. Substantial equivalence shall be  
19 determined by the court with reference to the rules adopted by the

1 department under this chapter. An action under this section may be  
2 brought after remedial action costs are incurred but must be brought  
3 within three years from the date remedial action confirms cleanup  
4 standards are met or within one year of the effective date of this  
5 section, whichever is later.

6 NEW SECTION. **Sec. 2.** This act applies to all causes of action  
7 regardless of when the cause of action may have arisen. To the extent  
8 a cause of action has arisen prior to the effective date of this act,  
9 this act applies retroactively, but in all other respects it applies  
10 prospectively.

11 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and shall take  
14 effect immediately.

15 NEW SECTION. **Sec. 4.** If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

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