

SENATE BILL REPORT

SB 6203

As Reported By Senate Committee On:
Agriculture & Environment, February 4, 1998

Title: An act relating to solid waste permitting.

Brief Description: Authorizing exemptions from solid waste designations.

Sponsors: Senators Morton, Fraser, Snyder and Swecker.

Brief History:

Committee Activity: Agriculture & Environment: 1/22/98, 2/4/98 [DPS].

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6203 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse and Oke.

Staff: Kari Guy (786-7437)

Background: In the 1997 session, the Legislature adopted ESHB 1419, directing the Department of Ecology to conduct a comprehensive review of the solid waste permit system. The review was to include recommendations to regulate materials in a manner that is commensurate with any risk the material may pose, with the goal of removing barriers to material recycling or reuse.

The Department of Ecology, in conjunction with the state Solid Waste Advisory Committee, completed this review and submitted a report to the Legislature in December 1997. The report included recommendations for both statutory and regulatory changes. Recommended legislative changes included the following:

- Allow *categorical exemptions* for wastes that are recycled that pose no human health or environmental threat.
- Allow *categorical exemptions* for solid waste handling practices that pose no human health or environmental threat.
- Establish a *use review determination process* for materials that are land applied, to determine whether certain materials may be exempt from solid waste regulation.
- Provide local health departments with the option of *deferring to other environmental permits* that adequately address environmental and human health protection.

Summary of Substitute Bill: *Categorical exemptions:* The Department of Ecology may exempt by rule one or more beneficial uses of waste from solid waste permitting. The department must consider whether the material will be beneficially used, and whether the use will present threats to human health or the environment.

The department may also adopt rules to exempt categories of solid waste handling facilities from the requirement to obtain a solid waste handling permit, if the department determines facilities pose little or no environmental risk. Facilities that receive municipal solid waste or that apply waste to land for disposal may not be exempt from permitting.

Use review determination process: The Department of Ecology must also establish procedures by rule for seeking a determination that materials not specifically exempt by rules should be exempt from solid waste permitting. The rules must include criteria for making this determination. Application must be made to the Department of Ecology. The Department of Ecology must forward a copy of the application to the local health departments. Within 45 days, the health departments must forward comments to the Department of Ecology which must then approve or disapprove the application.

The Department of Ecology must establish procedure for review of each exemption by the public, the solid waste industry, and local health departments. Any local health department or applicant may appeal the department's decision to the Pollution Control Hearings Board.

Deferral to other environmental permits: The Department of Ecology must develop rules describing when a local health department may defer solid waste permitting to other environmental permits issued for the same facility. A deferral may be done at the option of the local health department, if the health department determines that human health and environmental protection are adequately covered by existing permits.

Penalties: Civil penalties of \$1,000 per violation are authorized for any person who is exempt from solid waste permitting but fails to comply with the terms of the exemption.

Substitute Bill Compared to Original Bill: The Department of Ecology, rather than the local health department, is to make the determination of whether beneficial use of a solid waste may be exempted from solid waste permitting. Health departments provide comment to the department. The Department of Ecology must specify in rule a process to accept comment from the public and the solid waste industry on proposed exemptions.

The exemption from permitting as a solid waste facility is narrowed, and does not apply to any facility that receives municipal waste for final disposal, including landfills, incinerators, or transfer stations; or applies material to land for disposal purposes; or the operation of which presents risks to human health and the environment.

It is clarified that the act does not invalidate existing solid waste exemptions made in rule, or any existing deferral of solid waste permitting to other environmental permits.

Civil penalties are added.

Language is added to specify that nothing in the act affects the authority of the Utilities and Transportation Commission.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current solid waste system does not address the risk of materials, and low-risk materials are caught up in the regulatory system. This bill will encourage greater beneficial reuse of materials, and minimize duplicative permitting requirements.

Testimony Against: The state should not add loopholes to the solid waste laws. Local health departments should not have the authority to exempt certain solid wastes from solid waste designation. The bill needs to be tightened up to narrow the material and facility exemptions.

Testified: Jim Pendowski, Department of Ecology (pro); Sego Jackson, Snohomish County Solid Waste Management Division (pro); Jon Stier, Washington Public Interest Research Group (con); Craig Voegele, Boise Cascade (pro); J.P. Jones, Washington Refuse and Recycling Association (pro w/amendments); Bruce Jennings, Washington Toxics Coalition (con); Bill Vogler, Washington State Association of Counties; Scott Hazelgrove, AWB (pro).