

---

ENGROSSED SUBSTITUTE SENATE BILL 6203

---

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Fraser, Snyder and Swecker)

Read first time 02/05/98.

1 AN ACT Relating to solid waste permitting; amending RCW 70.95.020,  
2 70.95.170, and 70.95.190; adding new sections to chapter 70.95 RCW; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 70.95.020 and 1985 c 345 s 2 are each amended to read  
6 as follows:

7 The purpose of this chapter is to establish a comprehensive state-  
8 wide program for solid waste handling, and solid waste recovery and/or  
9 recycling which will prevent land, air, and water pollution and  
10 conserve the natural, economic, and energy resources of this state. To  
11 this end it is the purpose of this chapter:

12 (1) To assign primary responsibility for adequate solid waste  
13 handling to local government, reserving to the state, however, those  
14 functions necessary to assure effective programs throughout the state;

15 (2) To provide for adequate planning for solid waste handling by  
16 local government;

17 (3) To provide for the adoption and enforcement of basic minimum  
18 performance standards for solid waste handling;

1 (4) To provide technical and financial assistance to local  
2 governments in the planning, development, and conduct of solid waste  
3 handling programs;

4 (5) To encourage storage, proper disposal, and recycling of  
5 discarded vehicle tires and to stimulate private recycling programs  
6 throughout the state; and

7 (6) To encourage the development and operation of waste recycling  
8 facilities and activities needed to accomplish the management priority  
9 of waste recycling and to promote consistency in the permitting  
10 requirements for such facilities and activities throughout the state.

11 It is the intent of the legislature that local governments be  
12 encouraged to use the expertise of private industry and to contract  
13 with private industry to the fullest extent possible to carry out solid  
14 waste recovery and/or recycling programs.

15 NEW SECTION. Sec. 2. A new section is added to chapter 70.95 RCW  
16 to read as follows:

17 (1) The department may by rule exempt one or more beneficial uses  
18 of solid wastes from the permitting requirements of this chapter. In  
19 adopting the rule, the department shall consider the following:

20 (a) Whether the material will be beneficially used or reused; and

21 (b) Whether the beneficial use or reuse of the material will  
22 present threats to human health or the environment.

23 (2) The department shall establish procedures by rule for seeking  
24 a determination that any beneficial use of solid waste not exempted by  
25 rules adopted under subsection (1) of this section is exempt from the  
26 permitting requirements of this chapter. The rules shall establish  
27 criteria to be considered in making the determination, which shall  
28 include, but not be limited to, the criteria set forth in subsection  
29 (1) of this section. Rules adopted under this subsection shall define  
30 the information necessary for application. Persons seeking the  
31 determination shall apply to the department.

32 (3) After receipt of an application filed under rules adopted under  
33 subsection (2) of this section, the department shall review the  
34 application to determine whether it is complete, and forward a copy of  
35 the completed application to the jurisdictional health departments for  
36 review and comment. Within forty-five days, the jurisdictional health  
37 departments shall forward their comments and any other information they  
38 deem relevant to the department, which will then approve or disapprove

1 the application. Every complete application shall be approved or  
2 disapproved by the department within ninety days of receipt. No solid  
3 waste may be exempt from the permitting requirements of this chapter  
4 until the department has approved the beneficial use or reuse described  
5 in the complete application. After approval by the department, the  
6 solid waste is exempt from the permitting requirements of this chapter  
7 when used anywhere in the state in the manner approved by the  
8 department. Any change in the composition, use, or reuse of the solid  
9 waste invalidates the determination.

10 (4) The department shall establish procedures by rule for public,  
11 solid waste industry, and jurisdictional health department review of  
12 each determination to ensure conformity with:

13 (a) Procedures for exemptions specified in the minimum functional  
14 standards for solid waste handling; and

15 (b) The protection of human health and the environment.

16 (5) Any jurisdictional health department or applicant may appeal  
17 the determination by the department in subsection (3) of this section  
18 to the pollution control hearings board by filing with the hearings  
19 board a notice of appeal within thirty days after receipt of notice of  
20 the determination by the department. The hearings board shall hold a  
21 hearing in accordance with chapter 34.05 RCW.

22 (6) This section shall not be deemed to invalidate the exemptions  
23 or determinations of nonapplicability in the department's solid waste  
24 rules as they exist on the effective date of this section, which  
25 exemptions and determinations are recognized and confirmed subject to  
26 the department's continuing authority to modify or revoke those  
27 exemptions or determinations by rule.

28 **Sec. 3.** RCW 70.95.170 and 1997 c 213 s 2 are each amended to read  
29 as follows:

30 Except as provided otherwise in section 5 or 6 of this act, after  
31 approval of the comprehensive solid waste plan by the department no  
32 solid waste handling facility or facilities shall be maintained,  
33 established, or modified until the county, city, or other person  
34 operating such site has obtained a permit (~~(from the jurisdictional~~  
35 ~~health department)) pursuant to (~~the provisions of~~) RCW 70.95.180 or  
36 70.95.190.~~

1       **Sec. 4.** RCW 70.95.190 and 1997 c 213 s 4 are each amended to read  
2 as follows:

3       (1) Every permit for an existing solid waste handling facility  
4 issued pursuant to RCW 70.95.180 shall be renewed at least every five  
5 years on a date established by the jurisdictional health department  
6 having jurisdiction of the site and as specified in the permit. If a  
7 permit is to be renewed for longer than one year, the local  
8 jurisdictional health department may hold a public hearing before  
9 making such a decision. Prior to renewing a permit, the health  
10 department shall conduct a review as it deems necessary to assure that  
11 the solid waste handling facility or facilities located on the site  
12 continues to meet minimum functional standards of the department,  
13 applicable local regulations, and are not in conflict with the approved  
14 solid waste management plan. A jurisdictional health department shall  
15 approve or disapprove a permit renewal within forty-five days of  
16 conducting its review. The department shall review and may appeal the  
17 renewal as set forth for the approval of permits in RCW 70.95.185.

18       (2) The jurisdictional board of health may establish reasonable  
19 fees for permits reviewed under this section. All permit fees  
20 collected by the health department shall be deposited in the treasury  
21 and to the account from which the health department's operating  
22 expenses are paid.

23       NEW SECTION. **Sec. 5.** A new section is added to chapter 70.95 RCW  
24 to read as follows:

25       (1) Notwithstanding any other provision of this chapter, the  
26 department may exempt by rule any category of solid waste handling  
27 facility that it determines to present little or no environmental risk  
28 from the requirements to obtain a solid waste handling permit.

29       (2) This section does not apply to any facility or category of  
30 facilities:

31       (a) That receives municipal solid waste destined for final  
32 disposal, including but not limited to transfer stations, landfills,  
33 and incinerators;

34       (b) That applies waste materials on land for disposal purposes; or

35       (c) That receives waste destined for recycling or reuse, the  
36 operation of which is determined by the department to present risks to  
37 human health and the environment.

1 (3) Rules adopted under this section shall contain such terms and  
2 conditions as the department deems necessary to ensure compliance with  
3 applicable statutes and regulations.

4 (4) This section shall not be deemed to invalidate the exemptions  
5 or determinations of nonapplicability in the department's solid waste  
6 rules as they exist on the effective date of this section, which  
7 exemptions and determinations are recognized and confirmed subject to  
8 the department's continuing authority to modify or revoke those  
9 exemptions or determinations by rule.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95 RCW  
11 to read as follows:

12 (1) Notwithstanding any other provisions of this chapter, the  
13 department shall develop rules:

14 (a) Describing when a jurisdictional health department may, at its  
15 discretion, defer solid waste permitting to other air, water, or  
16 environmental permits issued for the same facility; and

17 (b) Allowing deferral only if the applicant and the jurisdictional  
18 health department demonstrate that other permits for the facility will  
19 provide a comparable level of protection for human health and the  
20 environment that would be provided by a solid waste handling permit.

21 (2) A jurisdictional health department may defer solid waste  
22 permitting to other environmental permits at its discretion.

23 (3) This section does not apply to any municipal solid waste  
24 transfer station, landfill, or incinerator.

25 (4) If, before the effective date of this section, either the  
26 department or a jurisdictional health department has deferred solid  
27 waste permitting or regulation of a solid waste facility to permitting  
28 or regulation under other environmental permits for the same facility,  
29 such deferral is valid and shall not be affected by the rules developed  
30 under subsection (1) of this section.

31 (5) Rules adopted under this section shall contain such terms and  
32 conditions as the department deems necessary to ensure compliance with  
33 applicable statutes and regulations.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.95 RCW  
35 to read as follows:

36 The department may assess a civil penalty in an amount not to  
37 exceed one thousand dollars per day per violation to any person exempt

1 from solid waste permitting in accordance with section 2 or 5 of this  
2 act who fails to comply with the terms and conditions of the exemption.  
3 Each such violation shall be a separate and distinct offense, and in  
4 the case of a continuing violation, each day's continuance shall be a  
5 separate and distinct violation.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW  
7 to read as follows:

8 Nothing in chapter . . . , Laws of 1998 (this act) may be construed  
9 to affect chapter 81.77 RCW and the authority of the utilities and  
10 transportation commission.

--- END ---