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SECOND SUBSTITUTE HOUSE BILL 2929

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State of Washington                      56th Legislature                      2000 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives McDonald and Linville)

Read first time 02/08/2000. Referred to Committee on .

1            AN ACT Relating to on-site sewage disposal systems; amending RCW  
2 70.118.020; adding new sections to chapter 70.118 RCW; adding a new  
3 section to chapter 18.210 RCW; creating new sections; and prescribing  
4 penalties.

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

6            NEW SECTION.    **Sec. 1.** The legislature enacted chapter 263, Laws of  
7 1999 to help address problems with failing septic systems. As part of  
8 chapter 263, Laws of 1999, a work group was created to develop  
9 recommendations regarding financial assurances of on-site sewage  
10 disposal system practitioners, including bonding, insurance, risk  
11 pools, and similar methods. This work group submitted its  
12 recommendations to the legislature on December 1, 1999.  
13 Recommendations developed by the work group include the development of  
14 a data collection system that documents the number and types of  
15 systems, locations within the state by region, the frequency of repair,  
16 and the diagnosed factors leading to repair, as well as the development  
17 of a model program that identifies the authorities, roles, and  
18 responsibilities of the designer, installer, and homeowner.

1 The legislature recognizes that a major source of nonpoint  
2 pollution is failing on-site sewage disposal systems. The 1999-2001  
3 Puget Sound water quality work plan, developed by the Puget Sound water  
4 quality action team, indicates that local governments have reported  
5 failure rates for on-site sewage disposal systems of up to twenty-five  
6 percent along the shoreline of Puget Sound. Pollution from these  
7 failing systems poses a risk to public health and water quality, and  
8 significantly impacts the shellfish industry. The general public is  
9 also exposed to significant health risks when sewage is discharged upon  
10 the ground or into surface or ground waters. The legislature finds  
11 that the public health and water quality can be better protected by:  
12 The development of better data; the development of clear lines of  
13 responsibility between the designer, installers, and homeowners; and  
14 clarifications to the existing law regarding on-site sewage disposal  
15 systems.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.118 RCW  
17 to read as follows:

18 If a local health officer requires the drainfield, sand filter, or  
19 mound portion of an on-site sewage disposal system to be dug open to  
20 determine the condition of the drainfield, sand filter, or mound, the  
21 local health officer shall require the installation of an inspection  
22 portal or portals in order to monitor the drainfield, sand filter, or  
23 mound in an easy and cost-effective manner. Any on-site sewage  
24 disposal system installed or repaired after the effective date of this  
25 section must: (1) Contain an inspection portal or portals in any  
26 drainfield, sand filter, or mound; and (2) be equipped with  
27 appropriately sealed risers in any septic tank openings requiring  
28 maintenance.

29 **Sec. 3.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read  
30 as follows:

31 As used in this chapter, the terms defined in this section shall  
32 have the meanings indicated unless the context clearly indicates  
33 otherwise.

34 (1) "Nonwater-carried sewage disposal devices" means any device  
35 that stores and treats nonwater-carried human urine and feces.

36 (2) "Alternative methods of effluent disposal" means systems  
37 approved by the department of health, including at least, mound

1 systems, alternating drainfields, anaerobic filters, evapotranspiration  
2 systems, and aerobic systems.

3 (3) "Failure" means: (a) Effluent has been discharged on the  
4 surface of the ground prior to approved treatment; or (b) effluent has  
5 percolated to the surface of the ground; or (c) effluent has  
6 contaminated or threatens to contaminate a ground water supply; or (d)  
7 a drainfield, sand filter, or mound has become saturated. For purposes  
8 of this subsection, "saturated" means an inability to absorb  
9 wastewater, which may be exhibited by a pumped tank filling from the  
10 backflow from the drainfield, sand filter, or mound. A failing system  
11 does not include those systems that are temporarily inoperable due to  
12 the occurrence of a flood.

13 (4) "Additive" means any commercial product intended to affect the  
14 performance or aesthetics of an on-site sewage disposal system.

15 (5) "Department" means the department of health.

16 (6) "On-site sewage disposal system" means any system of piping,  
17 treatment devices, or other facilities that convey, store, treat, or  
18 dispose of sewage on the property where it originates or on nearby  
19 property under the control of the user where the system is not  
20 connected to a public sewer system. For purposes of this chapter, an  
21 on-site sewage disposal system does not include indoor plumbing and  
22 associated fixtures.

23 (7) "Chemical additive" means those additives containing acids,  
24 bases, or other chemicals deemed unsafe by the department for use in an  
25 on-site sewage disposal system.

26 (8) "Additive manufacturer" means any person who manufactures,  
27 formulates, blends, packages, or repackages an additive product for  
28 sale, use, or distribution within the state.

29 NEW SECTION. Sec. 4. The department of health shall develop a  
30 model program pertaining to on-site sewage disposal systems that  
31 describes the authorities, roles, and responsibilities of designers,  
32 installers, and homeowners. In developing the model program, the  
33 department shall involve local health jurisdictions, owners of on-site  
34 sewage disposal systems, designers and installers of on-site sewage  
35 disposal systems, and builders. The meetings to develop the model  
36 program shall be open to the public, and time shall be allocated at  
37 each meeting to receive public comment. The model program has no  
38 binding effect on the liability of any party, but shall be used in the

1 future development of a cost-effective performance-based recovery  
2 system for consumers of on-site sewage disposal systems. The model  
3 shall give consideration to long-term performance warranties provided  
4 to the owners of these on-site systems. Design criteria in this model  
5 should address peak flow limitations. The department of health shall  
6 report its recommendations and model to the office of financial  
7 management and the appropriate legislative committees by July 1, 2001.

8 NEW SECTION. **Sec. 5.** The department of health shall develop  
9 recommendations for establishing a state-wide system of risk assessment  
10 data for on-site sewage disposal systems. The department shall consult  
11 with local health jurisdictions in developing the recommendations. The  
12 recommendations shall address how local governments will maintain and  
13 transmit information to the department pertaining to on-site sewage  
14 disposal systems, and how this information will be used by local health  
15 jurisdictions to determine appropriate siting, design, and inspection  
16 protocols. Information that shall be considered when developing the  
17 recommendations for the system of risk assessment data include the  
18 number and types of on-site sewage disposal systems, the frequency of  
19 repair by geographic regions, factors leading to repair by general  
20 category, and funding for the state and local governments to develop  
21 and maintain the system of data. Nothing in this section requires a  
22 local board of health to collect information concerning why an on-site  
23 sewage disposal system failed prior to the development of the system.  
24 The department of health shall submit its recommendations to the office  
25 of financial management and the appropriate legislative committees by  
26 January 1, 2001.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.118 RCW  
28 to read as follows:

29 Whenever a local health officer determines that a person has  
30 intentionally discharged effluent onto the surface of the ground, or  
31 into surface or ground water, or has installed a bypass to an on-site  
32 sewage disposal system that results in such a discharge, and the person  
33 causing the discharge is an installer, pumper, or other on-site sewage  
34 disposal system professional subject to department of health guidelines  
35 for on-site sewage disposal system work, the local board of health must  
36 suspend the license, certification, permit, or other authority of the  
37 on-site sewage disposal system professional for a minimum of thirty

1 days. The suspension under this section is in addition to any civil or  
2 criminal penalty that may be imposed by the local board of health or  
3 the department of health. This section does not apply when the  
4 discharge is authorized by a local health officer as the only realistic  
5 method of final disposal of treated effluent. This section does not  
6 apply to designers of on-site sewage disposal systems, who are subject  
7 to section 7 of this act for intentional discharges of effluent.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.210 RCW  
9 to read as follows:

10 When a local health officer determines that a designer has  
11 intentionally discharged effluent onto the surface of the ground, or  
12 into surface or ground water, or has installed a bypass to an on-site  
13 sewage disposal system that results in such a discharge, the local  
14 health officer shall report the incident to the board. The board,  
15 acting pursuant to RCW 18.210.030, shall suspend the license or  
16 practice permit of the designer for a minimum of thirty days. The  
17 suspension shall be in addition to any civil or criminal penalty that  
18 may be imposed. An intentional discharge of effluent in violation of  
19 this section constitutes malpractice under RCW 18.210.020. This  
20 section does not apply when the discharge is authorized by a local  
21 health officer as the only realistic method of final disposal of  
22 treated effluent.

23 NEW SECTION. **Sec. 8.** If specific funding for the purposes of this  
24 act, referencing this act by bill or chapter number, is not provided by  
25 June 30, 2000, in the omnibus appropriations act, this act is null and  
26 void.

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