
HOUSE BILL 1411

State of Washington

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By Representatives Veloria, Pennington, Cody, Campbell, Romero, Kenney, Keiser, Schual-Berke, Santos, Dunn, Linville, Boldt, Tokuda, Kagi, Cooper, McIntire and Rockefeller

Read first time 01/25/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to public notification of releases of hazardous
2 substances; amending RCW 70.105.005 and 70.105D.010; adding a new
3 section to chapter 70.105 RCW; adding a new section to chapter
4 70.105D RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 70.105.005 and 1985 c 448 s 2 are each amended to read
7 as follows:

8 The legislature hereby finds and declares:

9 (1) The health and welfare of the people of the state depend on
10 clean and pure environmental resources unaffected by hazardous
11 waste contamination. At the same time, the quality of life of the
12 people of the state is in part based upon a large variety of goods
13 produced by the economy of the state. The complex industrial
14 processes that produce these goods also generate waste byproducts,
15 some of which are hazardous to the public health and the
16 environment if improperly managed.

17 (2) Safe and responsible management of hazardous waste is

1 necessary to prevent adverse effects on the environment and to
2 protect public health and safety.

3 (3) The availability of safe, effective, economical, and
4 environmentally sound facilities for the management of hazardous
5 waste is essential to protect public health and the environment
6 and to preserve the economic strength of the state.

7 (4) Strong and effective enforcement of federal and state
8 hazardous waste laws and regulations is essential to protect the
9 public health and the environment and to meet the public's
10 concerns regarding the acceptance of needed new hazardous waste
11 management facilities.

12 (5) Negotiation, mediation, and similar conflict resolution
13 techniques are useful in resolving concerns over the local impacts
14 of siting hazardous waste management facilities.

15 (6) Safe and responsible management of hazardous waste requires
16 an effective planning process that involves local and state
17 governments, the public, and industry.

18 (7) Public acceptance and successful siting of needed new
19 hazardous waste management facilities depends on several factors,
20 including:

21 (a) Public confidence in the safety of the facilities;

22 (b) Assurance that the hazardous waste management priorities
23 established in this chapter are being carried out to the maximum
24 degree practical;

25 (c) Recognition that all state citizens benefit from certain
26 products whose manufacture results in the generation of hazardous
27 byproducts, and that all state citizens must, therefore, share in
28 the responsibility for finding safe and effective means to manage
29 this hazardous waste; and

30 (d) Provision of adequate opportunities for citizens to meet
31 with facility operators and resolve concerns about local hazardous
32 waste management facilities.

33 (8) Due to the controversial and regional nature of facilities
34 for the disposal and incineration of hazardous waste, the
35 facilities have had difficulty in obtaining necessary local
36 approvals. The legislature finds that there is a statewide interest
37 in assuring that such facilities can be sited.

38 It is therefore the intent of the legislature to preempt local

1 government's authority to approve, deny, or otherwise regulate
2 disposal and incineration facilities, and to vest in the
3 department of ecology the sole authority among state, regional,
4 and local agencies to approve, deny, and regulate preempted
5 facilities, as defined in this chapter.

6 In addition, it is the intent of the legislature that such
7 complete preemptive authority also be vested in the department for
8 treatment and storage facilities, in addition to disposal and
9 incineration facilities, if a local government fails to carry out
10 its responsibilities established in RCW 70.105.225.

11 It is further the intent of the legislature that no local
12 ordinance, permit requirement, other requirement, or decision
13 shall prohibit on the basis of land use considerations the
14 construction of a hazardous waste management facility within any
15 zone designated and approved in accordance with this chapter,
16 provided that the proposed site for the facility is consistent
17 with applicable state siting criteria.

18 (9) With the exception of the disposal site authorized for
19 acquisition under this chapter, the private sector has had the
20 primary role in providing hazardous waste management facilities
21 and services in the state. It is the intent of the legislature that
22 this role be encouraged and continue into the future to the extent
23 feasible. Whether privately or publicly owned and operated,
24 hazardous waste management facilities and services should be
25 subject to strict governmental regulation as provided under this
26 chapter.

27 (10) Wastes that are exempt or excluded from full regulation
28 under this chapter due to their small quantity or household origin
29 have the potential to pose significant risk to public health and
30 the environment if not properly managed. It is the intent of the
31 legislature that the specific risks posed by such waste be
32 investigated and assessed and that programs be carried out as
33 necessary to manage the waste appropriately. In addition, the
34 legislature finds that, because local conditions vary
35 substantially in regard to the quantities, risks, and management
36 opportunities available for such wastes, local government is the
37 appropriate level of government to plan for and carry out programs

1 to manage moderate-risk waste, with assistance and coordination
2 provided by the department.

3 (11) Because releases of hazardous substances can adversely
4 affect the health and welfare of the public, the environment, and
5 property values, it is in the public interest that affected
6 communities be notified of where historic and current releases of
7 hazardous substances have occurred and what is being done to clean
8 them up.

9 **Sec. 2.** RCW 70.105D.010 and 1994 c 254 s 1 are each amended to
10 read as follows:

11 (1) Each person has a fundamental and inalienable right to a
12 healthful environment, and each person has a responsibility to
13 preserve and enhance that right. The beneficial stewardship of the
14 land, air, and waters of the state is a solemn obligation of the
15 present generation for the benefit of future generations.

16 (2) A healthful environment is now threatened by the
17 irresponsible use and disposal of hazardous substances. There are
18 hundreds of hazardous waste sites in this state, and more will be
19 created if current waste practices continue. Hazardous waste sites
20 threaten the state's water resources, including those used for
21 public drinking water. Many of our municipal landfills are current
22 or potential hazardous waste sites and present serious threats to
23 human health and environment. The costs of eliminating these
24 threats in many cases are beyond the financial means of our local
25 governments and ratepayers. The main purpose of chapter 2, Laws of
26 1989 is to raise sufficient funds to clean up all hazardous waste
27 sites and to prevent the creation of future hazards due to
28 improper disposal of toxic wastes into the state's land and
29 waters.

30 (3) Many farmers and small business owners who have followed
31 the law with respect to their uses of pesticides and other
32 chemicals nonetheless may face devastating economic consequences
33 because their uses have contaminated the environment or the water
34 supplies of their neighbors. With a source of funds, the state may
35 assist these farmers and business owners, as well as those persons
36 who sustain damages, such as the loss of their drinking water
37 supplies, as a result of the contamination.

1 (4) It is in the public's interest to efficiently use our
2 finite land base, to integrate our land use planning policies with
3 our clean-up policies, and to clean up and reuse contaminated
4 industrial properties in order to minimize industrial development
5 pressures on undeveloped land and to make clean land available for
6 future social use.

7 (5) Because it is often difficult or impossible to allocate
8 responsibility among persons liable for hazardous waste sites and
9 because it is essential that sites be cleaned up well and
10 expeditiously, each responsible person should be liable jointly
11 and severally.

12 (6) Because releases of hazardous substances can adversely
13 affect the health and welfare of the public, the environment, and
14 property values, it is in the public interest that affected
15 communities be notified of where historic and current releases of
16 hazardous substances have occurred and what is being done to clean
17 them up.

18 NEW SECTION. Sec. 3. A new section is added to chapter 70.105
19 RCW to read as follows:

20 (1) Except as provided in subsection (4) of this section, any
21 owner or operator of a facility who knows or reasonably should
22 have known that a release of a hazardous substance has occurred at
23 the facility shall issue a public notice that the release has
24 occurred and shall describe the remedial actions that are being
25 taken to address the release. The public notice shall be issued
26 within sixty days of the discovery of the release.

27 (2) For the purposes of this section, issuing a public notice
28 means mailing a letter to:

29 (a) Each residence and landowner of a residence within one mile
30 of the facility;

31 (b) Each business within one mile of the facility;

32 (c) Each residence, landowner of a residence, and business
33 within the area where hazardous substances have come to be located
34 as a result of the release;

35 (d) The city, county, and local health district with
36 jurisdiction within the areas described in (a), (b), and (c) of
37 this subsection; and

1 (e) The department of ecology.

2 (3) A public notice shall provide the following information:

3 (a) The common name of any hazardous substances released and,
4 if available, the chemical abstract service registry number of
5 these substances;

6 (b) The address of the facility where the release occurred;

7 (c) The date the release was discovered;

8 (d) The cause and date of the release, if known;

9 (e) The remedial actions being taken to address the release;

10 (f) The potential health and environmental effects of the
11 hazardous substances released; and

12 (g) The name, address, and telephone number of a contact person
13 at the facility where the release occurred.

14 (4) The following activities are not considered releases of
15 hazardous substances for the purposes of this section:

16 (a) Application of pesticides and fertilizers for their
17 intended purposes and according to label instructions;

18 (b) The lawful and nonnegligent use of hazardous household
19 substances by a natural person for personal or domestic purposes;

20 (c) The discharge of hazardous substances in compliance with
21 permits issued under chapter 70.94, 90.48, or 90.56 RCW;

22 (d) De minimis amounts of any hazardous substances leaked or
23 discharged onto the ground;

24 (e) The discharge of hazardous substances to a permitted waste
25 water treatment facility or from a permitted waste water
26 collection system or treatment facility;

27 (f) The discharge of oil from an oil-heating system that has a
28 capacity of one thousand one hundred gallons or less;

29 (g) Any spill on a public right-of-way or to surface waters of
30 the state that has previously been reported to the United States
31 coast guard and the state division of emergency management under
32 chapter 90.56 RCW; and

33 (h) Any release of hazardous substances to the air.

34 An exemption from the notification requirements as provided in
35 this subsection (4) does not imply a release from liability under
36 this chapter.

37

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.105D
2 RCW to read as follows:

3 (1) Except as provided in subsection (4) of this section, any
4 owner or operator of a facility who knows or reasonably should
5 have known that a release of a hazardous substance has occurred at
6 the facility shall issue a public notice that the release has
7 occurred and shall describe the remedial actions that are being
8 taken to address the release. The public notice shall be issued
9 within sixty days of the discovery of the release.

10 (2) For the purposes of this section, issuing a public notice
11 means mailing a letter to:

12 (a) Each residence and landowner of a residence within one mile
13 of the facility;

14 (b) Each business within one mile of the facility;

15 (c) Each residence, landowner of a residence, and business
16 within the area where hazardous substances have come to be located
17 as a result of the release;

18 (d) The city, county, and local health district with
19 jurisdiction within the areas described in (a), (b), and (c) of
20 this subsection; and

21 (e) The department of ecology.

22 (3) A public notice shall provide the following information:

23 (a) The common name of any hazardous substances released and,
24 if available, the chemical abstract service registry number of
25 these substances;

26 (b) The address of the facility where the release occurred;

27 (c) The date the release was discovered;

28 (d) The cause and date of the release, if known;

29 (e) The remedial actions being taken to address the release;

30 (f) The potential health and environmental effects of the
31 hazardous substances released; and

32 (g) The name, address, and telephone number of a contact person
33 at the facility where the release occurred.

34 (4) The following activities are not considered releases of
35 hazardous substances for the purposes of this section:

36 (a) Application of pesticides and fertilizers for their
37 intended purposes and according to label instructions;

1 (b) The lawful and nonnegligent use of hazardous household
2 substances by a natural person for personal or domestic purposes;

3 (c) The discharge of hazardous substances in compliance with
4 permits issued under chapter 70.94, 90.48, or 90.56 RCW;

5 (d) De minimis amounts of any hazardous substances leaked or
6 discharged onto the ground;

7 (e) The discharge of hazardous substances to a permitted waste
8 water treatment facility or from a permitted waste water
9 collection system or treatment facility;

10 (f) The discharge of oil from an oil-heating system that has a
11 capacity of one thousand one hundred gallons or less;

12 (g) Any spill on a public right-of-way or to surface waters of
13 the state that has previously been reported to the United States
14 coast guard and the state division of emergency management under
15 chapter 90.56 RCW; and

16 (h) Any release of hazardous substances to the air.

17 An exemption from the notification requirements as provided in
18 this subsection (4) does not imply a release from liability under
19 this chapter.

20 NEW SECTION. **Sec. 5.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 6.** Sections 3 and 4 of this act take effect
25 January 1, 2002.

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