
**Natural Resources, Ecology &
Parks Committee**

HB 1605

Brief Description: Protecting children from area-wide soil contamination.

Sponsors: Representatives Upthegrove, Dickerson, Schual-Berke, Cody, McDermott, Hunter, B. Sullivan, Simpson, Morrell, Murray, Chase, Roberts, Kenney and Santos.

Brief Summary of Bill

- Directs the Department of Ecology, in cooperation with the Department of Health and the Department of Social and Health Services, to implement an area-wide soil contamination school and child care facility certification program.
- Requires schools and child care facilities within area-wide soil contamination zones to conduct qualitative evaluations, and if necessary conduct soil testing and implement mitigation measures to protect children from exposure to soil contamination.
- Requires child-care facilities within area-wide soil contamination zones to notify parents and guardians of the results of soil tests and the status of mitigation measures to address contamination.

Hearing Date: 2/17/05

Staff: Jeff Olsen (786-7157).

Background:

The Legislature provided \$1,200,000 in the Operating budget (Chapter 371, Laws of 2002) for the Department of Ecology (DOE), in conjunction with affected local governments, to address emergent area-wide soil contamination issues. The DOE chartered an Area-Wide Soil Contamination Task Force to offer advice about a statewide strategy to respond to low-to-moderate level arsenic and lead soil contamination. The Area-Wide Contamination Report published in June 30, 2003, contains findings and recommendations for the statewide strategy.

The state Model Toxics Control Act (MTCA) requires sites contaminated with hazardous materials to be cleaned up by liable parties. The MTCA is carried out by the DOE to ensure that the vast majority of sites at which hazardous substances have been released are cleaned up. The state cleanup standard for arsenic is 20 parts per million (PPM), and the state cleanup standard for lead is 250 ppm.

The Department of Social and Health Services (DSHS) oversees the licensing of child day care and family day-care providers. Child day-care facilities and family day-care providers that provide care for children must apply for a license from the DSHS.

Summary of Bill:

The Department of Ecology (DOE), in cooperation with the Department of Health (DOH) and the Department of Social and Health Services (DSHS), must implement an area-wide soil contamination school and child care facility certification program. The program must include:

- An education and awareness strategy to notify schools, child care facilities, parents and caretakers regarding the area-wide soil contamination program; and
- Qualitative assessments, soil testing, notification, mitigation, and certification requirements for schools and child care facilities within area-wide soil contamination zones.

The DOE is directed to adopt rules defining area-wide soil contamination, geographic zones containing contamination, soil testing protocols, and other requirements to implement the program.

Schools and child care facilities within area-wide soil contamination zones must conduct qualitative evaluations by December 31, 2006, to determine the potential for children's exposure to contamination. If the qualitative evaluation determines that children may routinely be exposed to soil contamination, schools and child care facilities must conduct soil samples by December 31, 2008. If the results of the soil test confirm the presence of area-wide soil contamination, by July 1, 2009, the school or child-care facility must develop and implement mitigation measures to protect children from exposure to soil contamination. The requirement to develop and implement mitigation measures is contingent upon state or local financial assistance to cover at least 50% of the cost of implementing the cleanup plan. If funding is not available, the cleanup requirement may be delayed until adequate matching funds are available.

Schools and child-care facilities must notify parents and guardians describing the results of area-wide soil tests and the status of mitigation plans annually or upon enrollment. Child care facilities must comply with the area-wide soil contamination certification program to receive or renew a license from the DSHS.

The DOE is directed to assist schools and child care facilities by providing technical and financial assistance to conduct qualitative evaluations, soil testing, and implementation of property specific public health plans. The DOE and the DOH must also develop area-wide soil contamination best management practice guidelines for schools and day care facilities. In addition, the DOE may provide grants to local health jurisdictions for the purpose of providing technical assistance to schools and day care facilities to implement best management practices.

Citizens within the school district or a parent or guardian of a student enrolled in a school has standing to seek enforcement of the area-wide soil contamination certification program in the superior court of the county where the school is located. The DOE may also enforce the requirements of the area-wide soil contamination certification program through remedial action orders under the MTCA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.