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HOUSE BILL 1605

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State of Washington

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

Read first time 01/31/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to protecting children from area-wide soil  
2 contamination; adding a new section to chapter 74.15 RCW; and adding a  
3 new chapter to Title 70 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that emissions from  
6 metal smelters, the use of lead arsenate pesticides, the combustion of  
7 leaded gasoline, and other sources have contributed to arsenic and lead  
8 soil contamination covering dispersed areas in the state. The  
9 legislature therefore finds it in the public interest to expedite  
10 measures to protect children's health by increasing awareness of the  
11 potential for elevated levels of arsenic and lead contamination,  
12 conduct soil testing at schools and child care facilities, and provide  
13 technical and financial assistance to implement mitigation measures  
14 that reduce the risk of exposure.

15 NEW SECTION. **Sec. 2.** (1) "Area-wide soil contamination" means low  
16 to moderate arsenic and lead soil contamination dispersed over a large  
17 geographic area.

1 (2) "Area-wide soil contamination zone" means an area the  
2 department has determined a potential exists for area-wide soil  
3 contamination.

4 (3) "Child care facility" means a child day-care center or a family  
5 day-care provider as those terms are defined under RCW 74.15.020.

6 (4) "Department" means the department of ecology.

7 (5) "Director" means the director of the department of ecology.

8 (6) "Low to moderate soil contamination" means low level arsenic or  
9 lead concentrations where a child's exposure to soil contamination at  
10 a school or a child care facility may be reduced through the  
11 implementation of a property-specific public health plan.

12 (7) "Property-specific public health plan" means measures developed  
13 by the department for a school or a child care facility including  
14 individual protective measures, site-specific mitigation, and other  
15 remedial actions to protect public health on sites containing area-wide  
16 soil contamination.

17 (8) "School" means a public or private kindergarten, elementary, or  
18 secondary school.

19 NEW SECTION. **Sec. 3.** The department, in cooperation with the  
20 department of social and health services and the department of health,  
21 shall establish an area-wide soil contamination school and child care  
22 facility certification program for schools and child care facilities  
23 within area-wide soil contamination zones to reduce the potential for  
24 children's exposure to area-wide soil contamination. The school and  
25 child care facility certification program shall include:

26 (1) An education and awareness strategy to notify schools and  
27 owners and operators of child care facilities, parents, and caretakers  
28 regarding area-wide soil contamination and the school and child care  
29 facility certification program;

30 (2) Qualitative assessments for schools and child care facilities  
31 within an area-wide soil contamination zone;

32 (3) Soil testing requirements for schools and child care facilities  
33 within an area-wide soil contamination zone;

34 (4) Notification requirements for schools and child care facilities  
35 within an area-wide soil contamination zone to notify parents and  
36 guardians regarding results of soil tests;

1 (5) Mitigation requirements for schools and child care facilities  
2 within an area-wide soil contamination zone to implement property-  
3 specific public health plans when required by the department;

4 (6) Certification requirements demonstrating schools and day care  
5 facilities are in compliance with this act; and

6 (7) Licensing requirements for owners and operators of child care  
7 facilities to comply with area-wide soil contamination child care  
8 facility certification requirements when obtaining or renewing licenses  
9 required under chapter 74.15 RCW.

10 NEW SECTION. **Sec. 4.** The department shall exercise the following  
11 powers, in addition to any other powers granted by law, to implement  
12 the provisions of this chapter:

13 (1) The director shall adopt by rule a definition for area-wide  
14 soil contamination. The definition shall specify the level of arsenic  
15 and lead concentrations where exposure must be reduced through the  
16 implementation of a property-specific public health plan.

17 (2) The director shall adopt by rule area-wide soil contamination  
18 zones. The area-wide soil contamination zone shall be based on current  
19 information regarding presence of area-wide soil contamination, and may  
20 be amended as additional information is available.

21 (3) The director shall adopt by rule soil sampling protocols for  
22 testing soils at schools and child care facilities within area-wide  
23 soil contamination zones.

24 (4) The department may adopt rules to implement the provisions of  
25 this chapter.

26 NEW SECTION. **Sec. 5.** (1) The superintendent or board of directors  
27 of a school or the owner or operator of a child care facility within an  
28 area-wide soil contamination zone shall perform the following  
29 activities:

30 (a) Conduct qualitative evaluations to determine the potential for  
31 children's exposure to area-wide soil contamination by December 31,  
32 2006.

33 (b) If the qualitative evaluation determines that children may be  
34 routinely exposed to area-wide soil contamination, conduct soil samples  
35 by December 31, 2008.

1 (c) If soil sample results confirm the presence of area-wide soil  
2 contamination, develop and implement a property-specific public health  
3 plan by July 1, 2009, provided that state or local financial assistance  
4 to cover at least fifty percent of the cost of implementing the plan is  
5 available. If adequate financial assistance is not available,  
6 property-specific public health plans may be delayed until adequate  
7 matching funding is available.

8 (2) Qualitative evaluations, soil sampling and testing, and  
9 property-specific public health plans shall comply with the  
10 requirements developed by the department under sections 3 and 4 of this  
11 act.

12 (3) The results of all qualitative evaluation, soil sampling and  
13 testing, and property-specific public health plans and documentation of  
14 implementation of these plans shall be provided to the department.

15 (4) The superintendent or board of directors of a school or owner  
16 or operator of a child care facility within an area-wide soil  
17 contamination zone shall provide written notification annually or upon  
18 enrollment to parents and guardians describing the area-wide soil  
19 contamination test results. If test results confirm the presence of  
20 area-wide soil contamination, the notification shall include a  
21 description of the property-specific public health plan and the current  
22 status of implementing the plan. This notification is not necessary  
23 once the property-specific public health plan has been fully  
24 implemented.

25 NEW SECTION. **Sec. 6.** (1) The department shall assist schools and  
26 owners and operators of child care facilities in area-wide soil  
27 contamination zones. Such assistance may include the following:

28 (a) Technical assistance in conducting qualitative evaluations to  
29 determine where area-wide soil contamination exposures could occur;

30 (b) Technical and financial assistance in testing soils where  
31 evaluations indicate potential for contamination; and

32 (c) Technical and financial assistance to implement property-  
33 specific public health plans.

34 (2) The department shall develop best management practice  
35 guidelines for schools and day care facilities with area-wide soil  
36 contamination. The guidelines shall recommend cost-effective methods  
37 for reducing exposure to contaminated soil.

1 (3) The department, within available funds, may provide grants to  
2 local health jurisdictions for the purpose of providing technical  
3 assistance to schools and day care facilities to implement best  
4 management practices.

5 NEW SECTION. **Sec. 7.** The department of health shall assist the  
6 department in developing and implementing the area-wide soil  
7 contamination school and child care facility certification program  
8 including but not limited to developing best management practices and  
9 guidelines for property-specific public health plans.

10 NEW SECTION. **Sec. 8.** If the superintendent or the board of  
11 directors of a school does not comply with the provisions of this  
12 chapter, any citizen in the school district or parent or guardian of a  
13 student in a school within an area-wide soil contamination zone has  
14 standing to seek enforcement of the requirements of this chapter in the  
15 superior court of the state of Washington in the county where the  
16 school is located.

17 NEW SECTION. **Sec. 9.** The department may enforce this chapter  
18 through remedial action orders under chapter 70.105D RCW.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.15 RCW  
20 to read as follows:

21 (1) The department shall implement the area-wide soil contamination  
22 school and child care facility certification program under sections 3  
23 and 4 of this act in coordination with existing licensing requirements  
24 for child day-care centers and family day-care providers under this  
25 chapter.

26 (2) An owner or operator of a child day-care center or a family  
27 day-care provider must comply with sections 3 and 5 of this act to  
28 receive a license or renew an existing license under this chapter.

29 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act constitute  
30 a new chapter in Title 70 RCW.

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