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SENATE BILL 5788

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Doumit, Kastama, Mulliken, Haugen, Morton, Poulsen, Pridemore and Berkey

Read first time 02/07/2005. Referred to Committee on Water, Energy & Environment.

1            AN ACT Relating to ensuring the lawful transport and handling of  
2 recyclable materials; amending RCW 70.95.030 and 70.95.305; reenacting  
3 and amending RCW 70.95.020; adding new sections to chapter 70.95 RCW;  
4 creating a new section; and prescribing penalties.

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

6            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
7 clarify methods to improve recycling in Washington state, and to  
8 further the purposes in RCW 70.95.020 and the goals of the state solid  
9 waste management plan adopted by the department of ecology under RCW  
10 70.95.260.

11            **Sec. 2.** RCW 70.95.020 and 1998 c 156 s 1 and 1998 c 90 s 1 are  
12 each reenacted and amended to read as follows:

13            The purpose of this chapter is to establish a comprehensive  
14 statewide program for solid waste handling, and solid waste recovery  
15 and/or recycling which will prevent land, air, and water pollution and  
16 conserve the natural, economic, and energy resources of this state. To  
17 this end it is the purpose of this chapter:

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

4 (2) To provide for adequate planning for solid waste handling by  
5 local government;

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

8 (4) To encourage the development and operation of waste recycling  
9 facilities needed to accomplish the management priority of waste  
10 recycling, (~~and~~) to promote consistency in the requirements for such  
11 facilities throughout the state, and to ensure that recyclable  
12 materials diverted from the waste stream for recycling are taken to  
13 facilities in which recycling occurs;

14 (5) To provide technical and financial assistance to local  
15 governments in the planning, development, and conduct of solid waste  
16 handling programs;

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

20 (7) To encourage the development and operation of waste recycling  
21 facilities and activities needed to accomplish the management priority  
22 of waste recycling and to promote consistency in the permitting  
23 requirements for such facilities and activities throughout the state.

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

28 **Sec. 3.** RCW 70.95.030 and 2004 c 101 s 1 are each amended to read  
29 as follows:

30 (~~As used in this chapter, unless the context indicates~~  
31 ~~otherwise~~)) The definitions in this section apply throughout this  
32 chapter unless the context clearly requires otherwise.

33 (1) "City" means every incorporated city and town.

34 (2) "Commission" means the utilities and transportation commission.

35 (3) "Committee" means the state solid waste advisory committee.

36 (4) "Composted material" means organic solid waste that has been  
37 subjected to controlled aerobic degradation at a solid waste facility

1 in compliance with the requirements of this chapter. Natural decay of  
2 organic solid waste under uncontrolled conditions does not result in  
3 composted material.

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

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

6 (7) "Disposal site" means the location where any final treatment,  
7 utilization, processing, or deposit of solid waste occurs.

8 (8) "Energy recovery" means a process operating under federal and  
9 state environmental laws and regulations for converting solid waste  
10 into usable energy and for reducing the volume of solid waste.

11 (9) "Functional standards" means criteria for solid waste handling  
12 expressed in terms of expected performance or solid waste handling  
13 functions.

14 (10) "Generator" means an entity from which transporters collect  
15 recyclable materials.

16 (11) "Incineration" means a process of reducing the volume of solid  
17 waste operating under federal and state environmental laws and  
18 regulations by use of an enclosed device using controlled flame  
19 combustion.

20 ((+11+)) (12) "Inert waste landfill" means a landfill that receives  
21 only inert waste, as determined under RCW 70.95.065, and includes  
22 facilities that use inert wastes as a component of fill.

23 ((+12+)) (13) "Jurisdictional health department" means city,  
24 county, city-county, or district public health department.

25 ((+13+)) (14) "Landfill" means a disposal facility or part of a  
26 facility at which solid waste is placed in or on land and which is not  
27 a land treatment facility.

28 ((+14+)) (15) "Local government" means a city, town, or county.

29 ((+15+)) (16) "Modify" means to substantially change the design or  
30 operational plans including, but not limited to, removal of a design  
31 element previously set forth in a permit application or the addition of  
32 a disposal or processing activity that is not approved in the permit.

33 ((+16+)) (17) "Multiple family residence" means any structure  
34 housing two or more dwelling units.

35 ((+17+)) (18) "Person" means individual, firm, association,  
36 copartnership, political subdivision, government agency, municipality,  
37 industry, public or private corporation, or any other entity  
38 whatsoever.

1        ~~((18))~~ (19) "Recyclable materials" means those solid wastes that  
2 are separated for recycling or reuse, such as papers, metals, and  
3 glass, that are identified as recyclable material pursuant to a local  
4 comprehensive solid waste plan. Prior to the adoption of the local  
5 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),  
6 local governments may identify recyclable materials by ordinance from  
7 July 23, 1989.

8        ~~((19))~~ (20) "Recycling" means transforming or remanufacturing  
9 waste materials into usable or marketable materials for use other than  
10 landfill disposal or incineration. "Recycling" does not include  
11 collecting, compacting, repackaging, and sorting for the purpose of  
12 transport, and does not include transporting recyclable materials.

13        ~~((20))~~ (21) "Recycling facility" means a solid waste facility  
14 permitted or otherwise authorized under this chapter to accept  
15 recyclable materials for recycling, including manufacturers, recycling  
16 centers, and other processing facilities.

17        (22) "Residence" means the regular dwelling place of an individual  
18 or individuals.

19        ~~((21))~~ (23) "Sewage sludge" means a semisolid substance  
20 consisting of settled sewage solids combined with varying amounts of  
21 water and dissolved materials, generated from a wastewater treatment  
22 system, that does not meet the requirements of chapter 70.95J RCW.

23        ~~((22))~~ (24) "Soil amendment" means any substance that is intended  
24 to improve the physical characteristics of the soil, except composted  
25 material, commercial fertilizers, agricultural liming agents,  
26 unmanipulated animal manures, unmanipulated vegetable manures, food  
27 wastes, food processing wastes, and materials exempted by rule of the  
28 department, such as biosolids as defined in chapter 70.95J RCW and  
29 wastewater as regulated in chapter 90.48 RCW.

30        ~~((23))~~ (25) "Solid waste" or "wastes" means all putrescible and  
31 nonputrescible solid and semisolid wastes including, but not limited  
32 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,  
33 demolition and construction wastes, abandoned vehicles or parts  
34 thereof, and recyclable materials.

35        ~~((24))~~ (26) "Solid waste handling" means the management, storage,  
36 collection, transportation, treatment, utilization, processing, and  
37 final disposal of solid wastes, including the recovery and recycling of

1 materials from solid wastes, the recovery of energy resources from  
2 solid wastes or the conversion of the energy in solid wastes to more  
3 useful forms or combinations thereof.

4 ~~((+25+))~~ (27) "Source separation" means the separation of different  
5 kinds of solid waste at the place where the waste originates.

6 ~~((+26+))~~ (28) "Transporter" includes any entity offering for hire  
7 services consisting of either collection or transportation, or both, of  
8 recyclable materials from commercial generators within the state to a  
9 recycling facility. "Transporter" does not include:

10 (a) Those companies hauling their own recyclables from their own  
11 business or worksites or individuals hauling their own recyclables from  
12 their own home;

13 (b) A commission certificated hauler, cities' municipal solid waste  
14 divisions, or city contractors, when these entities are transporting  
15 solid waste or residential curbside recyclables; or

16 (c) An entity hauling recyclables from a recycling facility to  
17 another recycling facility, manufacturer, or mill for reprocessing or  
18 directly to a port for export.

19 (29) "Vehicle" includes every device physically capable of being  
20 moved upon a public or private highway, road, street, or watercourse  
21 and in, upon, or by which any person or property is or may be  
22 transported or drawn upon a public or private highway, road, street, or  
23 watercourse, except devices moved by human or animal power or used  
24 exclusively upon stationary rails or tracks.

25 ~~((+27+))~~ (30) "Waste-derived soil amendment" means any soil  
26 amendment as defined in this chapter that is derived from solid waste  
27 as defined in RCW 70.95.030, but does not include biosolids or  
28 biosolids products regulated under chapter 70.95J RCW or wastewaters  
29 regulated under chapter 90.48 RCW.

30 ~~((+28+))~~ (31) "Waste reduction" means reducing the amount or  
31 toxicity of waste generated or reusing materials.

32 ~~((+29+))~~ (32) "Yard debris" means plant material commonly created  
33 in the course of maintaining yards and gardens, and through  
34 horticulture, gardening, landscaping, or similar activities. Yard  
35 debris includes but is not limited to grass clippings, leaves,  
36 branches, brush, weeds, flowers, roots, windfall fruit, vegetable  
37 garden debris, holiday trees, and tree prunings four inches or less in  
38 diameter.

1       **Sec. 4.** RCW 70.95.305 and 1998 c 156 s 5 are each amended to read  
2 as follows:

3       (1) Notwithstanding any other provision of this chapter, the  
4 department may by rule exempt from the requirements to obtain a solid  
5 waste handling permit any category of solid waste handling facility  
6 that it determines to:

7           (a) Present little or no environmental risk; and

8           (b) Meet the environmental protection and performance requirements  
9 required for other similar solid waste facilities.

10       (2) This section does not apply to any facility or category of  
11 facilities that:

12           (a) Receives municipal solid waste destined for final disposal,  
13 including but not limited to transfer stations, landfills, and  
14 incinerators;

15           (b) Applies putrescible solid waste on land for final disposal  
16 purposes;

17           (c) Handles mixed solid wastes that have not been processed to  
18 segregate solid waste materials destined for disposal from other solid  
19 waste materials destined for a beneficial use or recycling;

20           (d) Receives or processes organic waste materials into compost in  
21 volumes that generally far exceed those handled by municipal park  
22 departments, master gardening programs, and households; or

23           (e) Receives solid waste destined for recycling or reuse, the  
24 operation of which is determined by the department to present risks to  
25 human health and the environment.

26       (3) Rules adopted under this section shall contain such terms and  
27 conditions as the department deems necessary to ensure compliance with  
28 applicable statutes and rules. If a facility does not operate in  
29 compliance with the terms and conditions established for an exemption  
30 under subsection (1) of this section, the facility is subject to the  
31 permitting requirements for solid waste handling under this chapter.

32       (4) This section shall not be deemed to invalidate the exemptions  
33 or determinations of nonapplicability in the department's solid waste  
34 rules as they exist on June 11, 1998, which exemptions and  
35 determinations are recognized and confirmed subject to the department's  
36 continuing authority to modify or revoke those exemptions or  
37 determinations by rule.

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

3        (1) A transporter may not collect recyclable materials from  
4 generators within the state without first obtaining a transporter  
5 permit from the department. A transporter permit must be issued for a  
6 period of one year, beginning January 1st and ending December 31st.

7        (2) Nothing in this chapter prevents the operation of a recycling  
8 company or nonprofit entity from collecting and transporting recyclable  
9 materials from a buyback center, drop box, or from a commercial or  
10 industrial generator of recyclable materials.

11        (3) An application for a transporter permit under this section or  
12 the renewal thereof must be made to the department on forms provided by  
13 the department, no later than the deadline stated on the form. The  
14 application must include:

15        (a) The name, street, address, mailing address, and business  
16 telephone number of the applicant;

17        (b) Applicant business ownership information, responsible official,  
18 and contact person;

19        (c) Business license number;

20        (d) Proof of liability insurance;

21        (e) Any other relevant information deemed necessary by the director  
22 or the director's designee; and

23        (f) An application fee of one thousand dollars to be deposited into  
24 the waste reduction, recycling, and litter control account, created in  
25 RCW 70.93.180, for the purposes of administering this act.

26        (4) A transporter who collects recyclable materials within the  
27 state without a transporter permit required by this section is guilty  
28 of a misdemeanor.

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

31        (1) A transporter shall comply with all applicable federal, state,  
32 and local laws, rules, and regulations.

33        (2) A transporter shall notify the director within two days of  
34 receiving notice from a responsible agency that it is not in compliance  
35 as required in subsection (1) of this section.

36        (3) If a transporter fails to comply with subsection (1) of this  
37 section, the department must suspend the transporter permit issued

1 under section 5 of this act until the transporter has cured the  
2 violation in a manner satisfactory to the department. In addition, the  
3 department may not issue a transporter permit to a company that is not  
4 in compliance with subsection (1) of this section at the time of annual  
5 permit renewal each January 1st until any violation is corrected.

6 (4) Parking, storage, and maintenance facilities shall comply with  
7 all applicable zoning ordinances and any other applicable local and  
8 state statutes, ordinances, rules, and regulations. Areas for parking,  
9 repair, storage, or cleaning of vehicles or equipment may not be  
10 located in areas zoned as residential under local zoning ordinances.

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

13 (1) A transporter may deliver recyclable materials only to  
14 recycling facilities, and may not deliver any recyclable materials to  
15 a transfer station or landfill for disposal.

16 (2) Residual solid waste must be removed prior to a transporter  
17 moving a container from a collection site. The removed material must  
18 be placed in a container provided by the commission certificated  
19 hauler, city contractor, or city municipal department. Self-hauling of  
20 solid waste as permitted by chapter 81.77 RCW is lawful.

21 (3) A transporter shall keep records of locations and quantities  
22 specifically identified in relation to a generator's name, service  
23 date, address, and invoice, documenting: (a) Where recyclables have  
24 been sold, delivered for processing, or otherwise marketed; and (b)  
25 where and by whom residual solid waste has been delivered for disposal.  
26 These records must be retained for two years from the date of  
27 collection. The department shall adopt by rule provisions for annual  
28 reporting by transporters.

29 (4) A transporter who violates the provisions of this section is  
30 guilty of a misdemeanor.

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

33 (1) A transporter shall make all company premises, facilities, and  
34 records related to its operations under this chapter available for  
35 inspection without prior notice by department employees. Company  
36 premises, facilities, and records include, but are not limited to:



1 Offices, vehicles, storage areas, nonfinancial records, records  
2 pertaining to the origin of any loads collected by the transporter,  
3 receipts for the sale or delivery of collected recyclables, and  
4 customer lists.

5 (2) A transporter shall provide the department with an after-hours  
6 telephone number for use in emergencies.

7 (3) A transporter shall notify the department of anticipated  
8 changes in addresses and telephone numbers for any facility regulated  
9 by this chapter, including but not limited to office address, mailing  
10 address, yard location, and the after-hours phone number. Such a  
11 notice must be provided to the department in writing no less than ten  
12 business days before such a change.

13 (4) A transporter shall notify the department in writing of changes  
14 in company contact persons and responsible officials within one week  
15 after such a change.

16 (5) A transporter who collects recyclable materials within the  
17 state without a transporter permit required under section 5 of this act  
18 is guilty of a misdemeanor.

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.95 RCW  
20 to read as follows:

21 Any person may bring a civil action for a violation of this act by  
22 seeking injunctive relief or damages in the superior court of the  
23 county in which the violation took place or in Thurston county. Any  
24 person who prevails under this section is entitled to reasonable costs  
25 and attorneys' fees, including those on appeal.

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

28 (1) All recycling facilities must register with the department,  
29 except for facilities that are required to obtain a solid waste  
30 handling permit under RCW 70.95.170. No recycling facility may accept  
31 recyclable materials from a transporter within the state without having  
32 obtained a solid waste handling permit from the department or obtaining  
33 a registration under this section. A registration must be issued for  
34 a period of one year, beginning January 1st and ending December 31st.

35 The registration must include the following information:

36 (a) The name and address of the recycling facility;

1 (b) The name and contact information for the owner and the  
2 operator, if different, of the recycling facility;

3 (c) A description of the materials recycled at the facility;

4 (d) An explanation of the recycling processes and methods used by  
5 the facility; and

6 (e) A description of the maximum storage capacity of the facility  
7 for recyclable materials, and the maximum capacity for recycling wastes  
8 including the number of tons per year of recyclable materials and the  
9 number of tons per year of recycled products generated.

10 (2) The registration application must be accompanied by a fee of no  
11 less than one thousand dollars per year to be deposited into the waste  
12 reduction, recycling, and litter control account created in RCW  
13 70.93.180.

14 (3) Any facility that accepts recyclable materials within the state  
15 without first obtaining a solid waste handling permit under RCW  
16 70.95.170 or a registration under this section is guilty of a  
17 misdemeanor.

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

20 (1) The department shall adopt rules that establish financial  
21 assurance requirements for recycling facilities that do not already  
22 have financial assurance requirements under this chapter. The  
23 financial assurance requirements must take into consideration the  
24 amounts and types of recyclable materials recycled at the facility, and  
25 the potential closure and postclosure costs associated with the  
26 recycling facility.

27 (2) A recycling facility is required to meet financial assurance  
28 requirements adopted by the department by rule, unless the facility is  
29 already required to provide financial assurance under other provisions  
30 of this chapter.

31 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.95 RCW  
32 to read as follows:

33 (1) Every recycling facility shall prepare and submit an annual  
34 report to the department and the local health department that has  
35 jurisdiction over the recycling facility. The report is due by April

1 1st and must be submitted on forms supplied by the department. The  
2 annual report must detail recycling activities during the previous  
3 calendar year and include the following information:

4 (a) The name and address of the recycling facility and the contact  
5 information for the person conducting the recycling activity;

6 (b) A general description of the recycling activity;

7 (c) A description of the types of materials recycled;

8 (d) The annual quantities and types of materials received,  
9 recycled, and disposed, in tons, for purposes of determining progress  
10 towards achieving the goals of waste reduction, waste recycling, and  
11 treatment in accordance with RCW 70.95.010(4); and

12 (e) Any additional information required by written notification of  
13 the department.

14 (2) If a recycling facility fails to submit the report required in  
15 subsection (1) of this section, the department or local health  
16 department with jurisdiction over the recycling facility shall suspend  
17 the registration issued under section 10 of this act or permit issued  
18 under RCW 70.95.170 until the recycling facility has cured the  
19 violation in a manner satisfactory to the department.

20 (3) The department may make provisions for the consolidation and  
21 streamlining of reports required by this section and other reports  
22 required under this chapter.

23 NEW SECTION. **Sec. 13.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

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