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HOUSE BILL 3014

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State of Washington

60th Legislature

2008 Regular Session

By Representatives Chase, Springer, O'Brien, Linville, VanDeWege, Hunt, Grant, Morrell, Kenney, and Rolfes; by request of Lieutenant Governor

Read first time 01/21/08. Referred to Committee on Select Committee on Environmental Health.

1 AN ACT Relating to an exemption for manufacturers of biological  
2 remediation technologies for use in on-site sewage disposal systems;  
3 amending RCW 70.118.020; adding a new section to chapter 70.118 RCW;  
4 creating new sections; providing an expiration date; and providing a  
5 contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that discharges from  
8 failing on-site sewage systems are a serious cause of pollution in  
9 Washington's waterways, including Hood Canal, and a continuing threat  
10 to public health and the shellfish industry. The financial cost for  
11 many homeowners to fix failing or outdated on-site sewage systems may  
12 be prohibitive.

13 The legislature recognizes new technologies may have the potential  
14 to assist homeowners who wish to repair or upgrade their on-site sewage  
15 disposal systems. However, regulatory barriers may inhibit homeowner's  
16 access to these new technologies.

17 It is the intent of the legislature to assist homeowners to  
18 voluntarily upgrade or repair their failing on-site sewage disposal

1 systems by removing regulatory barriers to access of new technologies  
2 for on-site sewage systems.

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

5 ~~((As used))~~ The definitions in this section apply throughout this  
6 chapter(~~(, the terms defined in this section shall have the meanings~~  
7 ~~indicated))~~ unless the context clearly ~~((indicates))~~ requires  
8 otherwise.

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

11 (2) "Alternative methods of effluent disposal" means systems  
12 approved by the department ~~((of health))~~, including at least, mound  
13 systems, alternating drainfields, anaerobic filters, evapotranspiration  
14 systems, and aerobic systems.

15 (3) "Failure" means: (a) Effluent has been discharged on the  
16 surface of the ground prior to approved treatment; or (b) effluent has  
17 percolated to the surface of the ground; or (c) effluent has  
18 contaminated or threatens to contaminate a groundwater supply.

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

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

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

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

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

35 (9) "Repair" means relocation, replacement, or reconstruction of a  
36 failed on-site sewage disposal system.

1       (10) "Biological remediation" includes: (a) A process that uses  
2 microorganisms to return a contaminated environment, including a  
3 drainfield or soil dispersal component, to a state of nonfailure; or  
4 (b) a process that uses microorganisms to sufficiently increase the  
5 infiltration rate through and into the soil below the infiltrative  
6 surface of a clogged infiltrative surface on-site sewage disposal  
7 system.

8       NEW SECTION. Sec. 3. (1) Manufacturers of biological remediation  
9 technologies for use in the recovery of failed drainfields of on-site  
10 sewage disposal systems must provide documentation of verified product  
11 performance as required in (a)(i) through (iii) of this subsection to  
12 the local health jurisdiction where the product will be installed.  
13 Manufacturers of biological remediation technologies for use in the  
14 recovery of failed drainfields of on-site sewage disposal systems are  
15 not required to register their proprietary treatment products with the  
16 department if the following conditions are met:

17       (a)(i) Product performance is verified through product testing  
18 using international association of plumbing and mechanical officials  
19 guide criteria standard 180-2003, or an equivalent standard, which  
20 relates to aerobic bacterial generators for insert into septic tanks,  
21 grease interceptors, and grease traps;

22       (ii) Product performance is verified through product testing  
23 conducted by a testing facility conforming with the American national  
24 standards institute requirements;

25       (iii) The product continues its certification with the appropriate  
26 listing entity;

27       (iv) The biological component of the product meets the conditions  
28 of RCW 70.118.060 relating to additive regulation; and

29       (v) The biological remediation technology is used solely for the  
30 purpose of remedying or fixing a clogged infiltrative surface in a  
31 failed on-site sewage disposal system; or

32       (b) Third-party field testing, accredited by the American national  
33 standards institute, university testing data, or a department-approved  
34 entity, showing remediation of a failed drainfield within ninety days.

35       (2) The definitions in RCW 70.118.020 apply throughout this  
36 section.

1 (3) This section expires on the earlier of either July 1, 2010, or  
2 the effective date of rules adopted by the state board of health for  
3 the use and performance criteria of biological remediation technologies  
4 for on-site sewage disposal systems.

5 NEW SECTION. **Sec. 4.** (1) Biological remediation technology may be  
6 used in on-site sewage disposal systems not in a state of failure for  
7 the purpose of preventing clogged infiltrative surfaces.

8 (2) On-site wastewater treatment system designers licensed under  
9 chapter 18.210 RCW, installers approved by the local health officer to  
10 install on-site sewage disposal systems or components, professional  
11 engineers licensed under chapter 18.43 RCW, licensed on-site wastewater  
12 treatment system operation and maintenance professionals, licensed  
13 septic pumper, or other professional licensed by the local health  
14 jurisdiction may install biological remediation products for use in on-  
15 site sewage disposal systems not in a state of failure.

16 (3) A permit is not required for the installation or use of  
17 biological remediation devices when an on-site sewage disposal system  
18 is not in a state of failure. However, a local health jurisdiction may  
19 require registration for tracking purposes and charge a reasonable fee,  
20 not to exceed one hundred fifty dollars, to recover filing costs.

21 NEW SECTION. **Sec. 5.** (1) The state board of health shall adopt  
22 rules by July 1, 2010, for verification of biological remediation  
23 products performance and use of products with verified performance for  
24 use in failing on-site sewage disposal systems.

25 (2) The rules must stipulate requirements for permitting, ongoing  
26 certification of products, continued product use, and requirements for  
27 removal of biological remediation products.

28 (3) The rules must require monitoring of on-site sewage disposal  
29 systems using biological remediation technology and at least annual  
30 inspection of failing on-site sewage disposal systems that have  
31 biological remediation technologies installed to return any component  
32 of the on-site sewage disposal system to a state of nonfailure.

33 (4) The rules must set forth a fee schedule to cover the cost of  
34 implementing a verification and certification program for biological  
35 remediation products.

1 (5) The definitions in RCW 70.118A.020 apply throughout this  
2 section.

3 NEW SECTION. **Sec. 6.** The state board of health shall report to  
4 the appropriate committees of the legislature by July 1, 2009, on the  
5 progress of rule making, as well as the successes and failures of  
6 biological remediation technology.

7 NEW SECTION. **Sec. 7.** (1) A local health jurisdiction may permit  
8 biological remediation products for use in failing on-site sewage  
9 disposal systems. Prior to issuing a permit for a biological  
10 remediation product, the local health officer or on-site wastewater  
11 treatment system designer licensed under chapter 18.210 RCW must  
12 perform an assessment, considering site and effluent specific  
13 characteristics, of the on-site sewage disposal system to determine if  
14 biological remediation technology is appropriate to bring the system  
15 into a state of nonfailure and that the biological remediation  
16 technology will not adversely impact the environment or public health  
17 by increased wastewater flows through the on-site sewage disposal  
18 system and soil.

19 (2) The permit must state inspection, monitoring, and maintenance  
20 requirements.

21 (3) The local health jurisdiction must require system repairs to  
22 meet on-site sewage disposal system requirements as found in chapter  
23 246-272A WAC if an on-site sewage disposal system with a biological  
24 remediation product does not remedy a clogged infiltrative surface  
25 within three months.

26 (4) Each permit must include:

27 (a) A plan with a time frame for correcting any public health  
28 concern associated with the failing on-site sewage disposal system and  
29 the means to protect public health until the concern is addressed;

30 (b) A plan for operation and maintenance that is filed with the  
31 local health jurisdiction;

32 (c) A schedule for maintenance and operation reports detailing the  
33 status of the on-site sewage disposal system with the local health  
34 jurisdiction where the on-site sewage disposal system is located;

35 (d) A contract with the owner of the on-site sewage disposal system

1 with a biological remediation product for inspection and monitoring by  
2 an inspector certified under RCW 70.118.120 or local health officer;  
3 and

4 (e) Information for the owner of an on-site sewage disposal system  
5 with a biological remediation product that includes: (i) Instructions  
6 for appropriate maintenance and operation of an on-site sewage system;  
7 and (ii) a statement that if the on-site sewage disposal system remains  
8 in a state of failure after three months, the owner will be required to  
9 repair the on-site sewage disposal system as required by chapter 246-  
10 272A WAC, and an estimate of those costs.

11 (5) The definitions in RCW 70.118.020 apply throughout this  
12 section.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.118 RCW  
14 to read as follows:

15 Only on-site wastewater treatment system designers licensed under  
16 chapter 18.210 RCW, installers approved by the local health officer to  
17 install on-site sewage disposal systems or components, or professional  
18 engineers licensed under chapter 18.43 RCW are permitted to install  
19 biological remediation products for use in failing on-site sewage  
20 disposal systems.

21 NEW SECTION. **Sec. 9.** Sections 4 through 7 of this act expire July  
22 1, 2010.

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