

FINAL BILL REPORT

SSB 6557

C 147 L 10
Synopsis as Enacted

Brief Description: Limiting the use of certain substances in brake friction material.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser and Kline; by request of Department of Ecology and Puget Sound Partnership).

Senate Committee on Environment, Water & Energy
Senate Committee on Ways & Means
House Committee on Environmental Health
House Committee on General Government Appropriations

Background: Motor vehicle brakes contain brake pads (pads) designed to retard or stop movement of a motor vehicle through friction against a rotor. Brake pads may contain copper and other metals. Operation of brakes generates dust containing these substances. Brake pad dust has been identified as a significant source of copper in the environment. High copper levels are toxic to aquatic life, including salmon.

Summary: In-state sale of brake pads containing copper and other substances is banned on a phased basis. Bans apply to sale by manufacturers, wholesalers, retailers, and distributors of pads and motor vehicles (vehicles).

Bans. Beginning in 2014, sale of pads containing more than trace amounts of asbestos, cadmium, chromium, lead, and mercury is banned. Pads manufactured prior to 2015 are exempt to permit clearing of inventory until 2025. Pads manufactured as part of an original equipment service (OES) contract for vehicles manufactured prior to 2015 are also exempt.

Beginning in 2021, sale of pads containing more than 5 percent copper is banned. Pads manufactured prior to 2021 are exempt to permit clearing of inventory until 2031. Pads manufactured as part of an OES contract for vehicles manufactured prior to 2021 are also exempt.

Beginning eight years after a Department of Ecology (Ecology) decision, sale of pads containing more than 0.5 percent copper is banned. (See Requiring Low Copper Pads, below.)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Additional Exemptions. Pads used in several vehicles are exempt from bans, including:

- vehicles not subject to vehicle licensing requirements, such as off-road vehicles;
- motorcycles;
- vehicles with brakes emitting no debris or fluid under normal circumstances;
- military combat vehicles;
- race cars, dual-sport vehicles, or track day vehicles; and
- vehicles over 30 years old.

Pads used in parking brakes are also exempt.

Vehicle or pad manufacturers may apply to Ecology for exemptions for pads used in specific vehicle models or model classes based on special needs or characteristics. Manufacturers must demonstrate that compliance with restrictions is not feasible, compromises safety standards, or causes significant hardship.

Certification. By December 1, 2012, Ecology must develop pad certification criteria. By 2015 pad manufacturers must mark proof of certification on pads and packaging. Pads manufactured or packaged prior to 2015 are exempt from the marking requirement. Beginning in 2021, manufacturers of new vehicles offered for sale in Washington must ensure that vehicles are equipped with certified pads.

Requiring Low-Copper Pads. By December 1, 2015, Ecology must determine whether pads containing no more than 0.5 percent copper and meeting other requirements (low-copper pads) may be available. If it finds that low-copper pads may be available, Ecology must convene a Brake Friction Material Advisory Committee (Committee) to assess availability of low-copper pads. The Committee will include representatives of Ecology, the Washington State Patrol, pad manufacturers, vehicle manufacturers, the National Highway Traffic Safety Administration, and a nongovernmental organization concerned with the environment.

If, after considering the Committee's recommendations, Ecology finds that low-copper pads are available, it must publish the finding in the Washington State Register (WSR) and report to the Legislature. Beginning eight years after WSR publication, sale of pads containing more than 0.5 percent copper is banned.

However, if Ecology finds that low-copper pads are not available, it must periodically evaluate the finding and may again conduct the preceding assessment process.

Violations. Ecology will enforce requirements, and may impose civil penalties for violations. Prior to imposing a penalty, Ecology must issue a warning letter and offer assistance to achieve compliance. Pad manufacturers that knowingly violate requirements must recall pads and reimburse purchasers' costs. Vehicle distributors or retailers selling used vehicles with noncompliant pads are not in violation unless they installed noncompliant pads and were aware that the pads were noncompliant. Vehicle manufacturers that violate requirements must notify registered owners of vehicles and replace noncompliant pads at no cost to owners.

Pad Monitoring. By 2013 and at least every three years thereafter, pad manufacturers must provide Ecology with data regarding pad contents. By July 1, 2013, Ecology must establish

baseline levels for antimony, copper, nickel, and zinc in pads. If levels increase by over 50 percent of baseline levels, Ecology may recommend limits on antimony, nickel, and zinc in pads.

Ecology Rulemaking. Ecology must adopt rules regarding its publishing and legislative reporting duties when it requires use of low-copper pads. The agency may adopt other implementing rules.

Votes on Final Passage:

Senate	39	8	
House	86	12	(House amended)
Senate	40	6	(Senate concurred)

Effective: June 10, 2010