

SENATE BILL REPORT

SB 5110

As of May 2, 2011

Title: An act relating to carpet stewardship.

Brief Description: Concerning carpet stewardship.

Sponsors: Senators Kohl-Welles, Chase, Rockefeller, Kline, Ranker, Shin, Nelson, Fraser and White.

Brief History:

Committee Activity: Environment, Water & Energy: 2/02/11.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Jan Odano (786-7486)

Background: Carpet is made from natural and synthetic fibers. The most common type of fibers used are made of polyamides (nylons) and polypropylene. These fibers make up an estimated 90 percent of the commercial market. Nylon and polypropylene are petroleum based and their price varies with the price of oil.

In the United States, approximately 5 billion pounds of carpet are disposed of every year. Approximately, 5 percent of discarded carpet is recovered. In Washington State, an estimated 145,000 tons of carpet is disposed of annually, or 2.9 percent of Washington's disposed waste, with only 2 percent recycled. Approximately 112,000 tons of carpet and carpet padding goes to landfills, with approximately 50,000 tons coming from Seattle and King County.

In 2002 members of the carpet industry; representatives of federal, state, and local governments; and non-governmental organizations signed a Memorandum of Agreement (MOU) for Carpet Stewardship. The MOU set national goals and established a ten-year schedule to increase the amount of recycling and reuse of discarded carpet and to reduce the amount of carpet going to landfills. The carpet industry created the Carpet America Recovery Effort (CARE) to meet the goals of the MOU. CARE, with members from the carpet industry and government, is responsible for monitoring, evaluating, and assessing progress made to meeting the goals of the MOU. CARE is funded and administered by the carpet industry. Washington is one of 21 states participating in CARE.

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.

Recycled carpet products include new carpet, carpet backing and padding, automotive products, decking, filters and booms, plastic pellets, soil erosion devices, and reinforced concrete. All of the new carpet made from recycled carpet fibers occurs in the Southeast. Many of the companies that produce new products from recycled carpet are also in the Southeast.

Summary of Bill: A producer of carpet, a person who manufactures and sells, offers for sale, or distributes that carpet in the state, must participate in a carpet stewardship organization (organization) by January 1, 2014. The organization's product stewardship program (program) must be approved by the Department of Ecology (Ecology) and implemented by July 1, 2014. The program must have systems for financing, collecting, transporting, processing, and recycling discarded carpet. The program must include five-year performance goals; increase recycling of discarded carpet; increase recyclability of carpets; and incentivize market growth of products made from discarded carpet. The organization must provide a program at no cost to carpet installers and may not charge a fee at the time the discarded carpet is collected. A producer that is not participating in a product stewardship program may be subject to penalties of up to \$1000 for each day of non-compliance. The penalties are appealable to the Pollution Control Hearings Board.

Carpet stewardship organizations must submit an annual report to Ecology beginning 2015. The report must show that the program met its performance goals, describe implementation activities, and state the ultimate disposition of discarded carpet including the amount recycled.

Ecology must adopt rules to implement and enforce the carpet product stewardship program. The rules must establish program performance goal standards and address management and organization of collecting, transporting, processing, and recycling services; public notification; and public review process.

Ecology may not approve a program without the required elements or if the program will reduce recycling of discarded carpet. Ecology must state its reason for not approving a program. Ecology must notify an organization of the decision to approve its program within 60 days of receipt of the program for review. The organization may revise and resubmit a program within 60 days of receiving notice of non-approval. Ecology must set a fee sufficient to cover the cost of administering and enforcing the Carpet Product Stewardship Program.

Ecology must post on its public website all approved carpet stewardship programs, program annual reports, and names of complying and non-complying carpet producers. Wholesalers and retailers selling or distributing carpet must monitor the website to determine if a producer is complying with this act. A wholesaler or retailers is in compliance when ordering or purchasing carpet from a producer who is listed as in compliance on that date.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are approximately 145,000 tons of carpet sent to landfills. This material could be used as feedstocks for local manufacturing. It creates a reliable stream of recovered materials to recycling and processing businesses and end markets. The program should be available to all at no cost. This is budget neutral to the state and no additional costs to local governments. Ecology would be able to recover costs from manufacturers. Product stewardship promotes local business growth, for example the E-cycle law is a good model.

CON: The carpet industry is one of the last major manufacturing industries left in the U.S. Like other industries, the carpet business has suffered in this economy resulting in a steep decline in sales and loss of jobs. This bill will only create more costs and burdens to the industry. A mandate for a recycling carpet program is not a feasible option at this time. There will be costs to installers to recycle and every other business that deals in some way with carpet. Consumers will be bearing the costs. There should be an incentive to dealers to participate in carpet recycling and reusing. This will give a state department authority to dictate how to design, market, produce, and distribute their products. It will set up an expensive collection system. The state will have unfettered discretion in imposing fees. A national, voluntary program would be best.

OTHER: We support the concept of producer responsibility for difficult to manage wastes. It helps to minimize government involvement by having industry design, fund, and manage a program for materials that are difficult to recycle. Producer responsibility has been shown to be a successful option for funding and supporting recycling.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Lauren Cole, King County; Suellen Mele, Zero Waste Washington; Sally Wolf, Zero Waste Seattle; Shirli Axelrod, City of Seattle; Ron Smith, Carpet Collectors.

CON: Mark Johnson, WA Retail Assoc.; Steve Gano, Building Industry Assoc. of WA; Ron Smith, Carpet Collectors; Debbie Tott, WA State Floor Covering Assoc.; Terry Gillis, Recovery 1, Inc; Gary Smith, Industrial Business Assoc.; Jennifer Mendez, Carpet- Rug Institute.

OTHER: Laurie Davies, Dept. of Ecology.