

SENATE BILL REPORT

SB 6341

As of January 31, 2012

Title: An act relating to creating jobs by increasing the recycling of discarded carpet.

Brief Description: Creating jobs by increasing recycling of discarded carpet.

Sponsors: Senators Kohl-Welles, Nelson, Chase, Frockt, Ranker, McAuliffe, Kline and Keiser.

Brief History:

Committee Activity: Environment:

SENATE COMMITTEE ON ENVIRONMENT

Staff: Diane Smith (786-7410)

Background: Carpet is made from natural and synthetic fibers. The most common types of fiber 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 prices vary 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, carpet accounts for 3.6 percent of Washington's annual disposed waste, by weight, with only 2.3 percent recycled. Approximately 112,000 tons of carpet and carpet padding go to landfills; approximately 50,000 tons come from Seattle and King County.

The recycling industry accounted for about 4,500 jobs in Washington in 2009.

In 2002 members of the carpet industry; representatives of federal, state, and local governments; and non-governmental organizations signed a Memorandum of Understanding (MOU) for Carpet Stewardship. 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 agreed-upon goal was 40 percent carpet recovery with a 4 - 5 percent recovery rate achieved to date nationwide.

The carpet industry created the Carpet America Recovery Effort (CARE) to meet the goals of MOU. CARE, with members from the carpet industry and government, is responsible for monitoring, evaluating, and assessing progress made toward meeting the goals of MOU.

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.

CARE is funded and administered by the carpet industry. Washington is one of 21 states participating in CARE.

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 companies that produce new products from recycled carpet are also located in the Southeast; however, there are also companies in the Pacific Northwest that recycle carpeting.

Summary of Bill: A producer of carpet – a person who manufactures and sells, offers for sale, or distributes carpet – in the state must participate in a carpet stewardship organization (CSO) by January 1, 2013. CSOs must implement programs beginning January 1, 2015. A schedule for implementation by county is provided. The program must have systems for financing, collecting, transporting, processing, and recycling discarded carpet. Collection services must be provided at convenient locations with at least one public collection location per 100,000 residents and one per county. 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. CSO must provide a program at no cost to all entities who remove carpet and may not charge a fee at the time the discarded carpet is collected. The program must accept all carpet that is source-separated and free of specified contaminants that make the carpet unrecyclable. At least 60 percent of the carpet by weight must be recycled or reused.

CSOs must submit an annual report to the Department of Ecology (DOE) beginning January 1, 2016. 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. In-state retailers, wholesalers, and distributors may exhaust their existing stock through sales or use carpet bought or bid upon prior to the effective date, restricting the sale of carpet from producers who are not in compliance.

DOE must establish a fee based on market share data provided by CSOs. The fee must be sufficient to cover the cost of implementing the Program. Unspent funds from the previous year must be applied to reduce the payments by CSOs the following year. On March 1, 2013, CSOs must submit an initial fee of \$1,000 for each represented producer to cover DOE's estimated first annual fee.

DOE may not approve a program that does not meet the requirement or that will not reduce recycling of discarded carpet. DOE must state its reason for not approving a program. DOE must notify an CSO of the decision to approve its program within 60 days of receipt of the program for review. CSO may revise and resubmit a program within 60 days of receiving notice of non-approval DOE must post on its public website all approved CSO programs, program annual reports, and names of complying and non-complying carpet producers. DOE's decision to approve or not approve a product stewardship program is appealable to the pollution control hearings board.

A CSO that expends a minimum of \$5,000 in collecting, handling, recycling, or disposing of carpet manufactured by a producer that is not covered by a stewardship program may sue that

carpet manufacturer for CSO's costs, plus three times its costs as damages, plus attorneys fees, and costs of litigation.

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: This bill could increase end-product uses and acknowledges the true life-cycle costs. Because DOE's costs are recovered, the bill is budget-neutral for the state. Bills like this allow new entrants into the recycling field because they provide certainty of continuity. Without it, investments are not made. We need businesses to use recycled products and we need assured supply of post-consumer material.

CON: Carpet recycling started in 2002, prior to which there were no facilities; 1.6 million pounds of carpet have been diverted from landfills since then but not all has been recycled. We need state procurement contracts to require recycled carpet. All in the carpet industry want recycling but this bill will not speed up the progression. Machines and processes are just now being developed. What would help are low-interest loans or grants to recyclers and requirements to use the products from recycled carpet which are not all carpet. This can include rail road ties and artificial hay bales. What helps make recycling economically feasible are drop off points near to the need for them. A national approach modeled after the e-waste program is preferred. Commercial carpet is hard to recycle. Carpet should be engineered to be recycled. It's made to last 30 years. There is a lot of post-consumer carpet but a mandate is premature. I spent \$2 million on a machine to recover carpet backing but there is still no market for the product. I do not process commercial carpet because the yield is not there. Compounders are not here. The material is sent from here to locations east of the Mississippi, then back here, and then Boeing uses the material.

OTHER: The current system is not working. The only drop-off points are in King County or Tacoma. Carpet procurement requires carpet recycling and the use of recycled content. There is a fiscal impact. There being no rulemaking is problematic.

Persons Testifying: PRO: Kris Beatty, King County Solid Waste Division; Shirley Axelrod, Seattle Public Utilities; Suellen Melle, Zero Waste WA; James Palmer, WA Dept. of Commerce.

OTHER: Shannon McClelland, DOE.

CON: Bill Stauffacher, Jennifer Mendez, Carpet and Rug Institute; Debbie Tott, WA State Floor Covering Assn.; George Kupper, citizen.