

HOUSE BILL REPORT

ESB 6501

As Reported by House Committee On:
Environment

Title: An act relating to used oil recycling.

Brief Description: Concerning used oil recycling.

Sponsors: Senators Ericksen and Darneille.

Brief History:

Committee Activity:

Environment: 2/25/14, 2/26/14 [DPA].

Brief Summary of Engrossed Bill
(As Amended by Committee)

- Requires that local governments address best management practices for preventing and managing polychlorinated biphenyl (PCB) contamination at used oil collection sites as part of their hazardous waste management plans.
- Establishes a process for cities and counties to submit petitions to the Department of Ecology (DOE) for reimbursement of extraordinary compliance costs associated with PCB contamination of collected used oil.
- Directs the DOE to prioritize and recommend city and county reimbursement petitions to the Legislature which are intended to be funded from the Model Toxics Control Accounts.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 12 members: Representatives Fitzgibbon, Chair; Senn, Vice Chair; Short, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Farrell, Fey, Harris, Kagi, Morris, Nealey, Overstreet and Tharinger.

Staff: Jacob Lipson (786-7196).

Background:

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.

Polychlorinated biphenyls (PCBs) are synthetic organic chemicals that were commercially manufactured and used in a variety of products, including electrical insulating and transformer oils, hydraulic equipment, paints, plastics, rubber products, pigments, and dyes. The 1976 federal Toxic Substance Control Act (TSCA) banned the commercial manufacture and use of PCBs, and delegated authority to the Environmental Protection Agency (EPA) to implement and enforce PCB handling, cleanup, and disposal regulations. The TSCA is a strict liability statute, meaning that there is no requirement that a violator's conduct be willful or knowing. Noncompliance with TSCA PCB regulations may subject the violator to civil penalties or injunctive relief, or to criminal sanctions in the case of knowing or willful violations.

Used oil may include oil that has been used in vehicle engines or machinery, or which has otherwise acquired physical or chemical impurities as a result of use. Used oil which has been contaminated with hazardous waste is regulated under federal or state hazardous waste regulations, and is not managed as a recyclable product in the same manner as uncontaminated used oil. Used oil that contains more than two parts per million of PCBs must be disposed of in conformity with the EPA's TSCA regulations, which provides for either the incineration or disposal of PCB-containing oils, depending on PCB concentration levels. To determine whether used oil should be managed as a hazardous waste, federal and state regulations require that used oil transporters either: (1) test for the level of halogen impurities in the used oil; or (2) estimate halogen impurity levels by applying knowledge of materials or processes previously used on the oil.

Under state hazardous waste management laws, the Department of Ecology (DOE) must develop a statewide hazardous waste management plan. Local governments must also develop hazardous waste plans, which are integrated with the DOE's state plan. Local government hazardous waste management plans must contain a used oil recycling element which adopts local goals for household used oil recycling and incorporates voluntary collection agreements with state agencies and the private sector. However, the DOE may waive these specific used oil plan requirements if the DOE determines that the local government is generally meeting used oil recycling objectives. Under the used oil recycling law, the DOE has developed guidelines which include local used oil collection goals, criteria for the minimum prevalence of used oil collection sites, and suitable public locations for used oil collection. The DOE has also created best management practices for used oil collection centers which help explain the DOE and federal regulations for used oil container labeling, handling, storage, and spill response.

The Model Toxics Control Act (MTCA), which establishes state contaminated site cleanup and pollution prevention programs, includes three accounts used to fund state and local MTCA activities: the State Toxics Control Account, the Local Toxics Control Account, and as of 2013, the Environmental Legacy Stewardship Account. The three MTCA accounts are primarily funded by revenue from the 0.7 percent tax applied to the value of hazardous substances.

Summary of Amended Bill:

The used oil recycling component of local government hazardous waste plans must include a plan for adhering to the DOE-developed used oil best management practices for preventing and managing PCBs. The DOE is directed to develop used oil PCB best management practices and to update related public used oil collection site guidelines by July 1, 2015. Used oil collection best management practices for PCB prevention and management must include:

- tank testing;
- contaminated tank labeling, security, and cleanup standards;
- contaminated used oil disposal in compliance with state and federal standards;
- spill control measures; and
- model language for contracts between local governments and used oil collection vendors.

Counties and cities may petition the DOE for reimbursement of extraordinary costs associated with complying with unforeseen PCB contamination of used oil and associated EPA compliance orders or agreements. In consultation with the EPA, local government waste coordinators, and other stakeholders, the DOE must prioritize the petitions of cities and counties that:

- follow and meet updated best management practices guidelines for used oil collection and for preventing and managing PCB contamination; and
- have incurred extraordinary compliance or disposal costs which the city or county could not have reasonably accommodated or anticipated in their normal budget process by following and meeting best management practices for PCB used oil contamination, as determined by the DOE.

By January 1 of each year, the DOE must recommend a prioritized list of city and county petitions for funding by the Legislature, which are intended to be funded from the MTCA accounts.

Amended Bill Compared to Engrossed Bill:

The amended bill establishes a deadline of July 1, 2015, for the DOE to develop best management practices for preventing and managing PCB contamination of used oil, and for the DOE to update associated used oil collection guidelines. The amended bill clarifies the DOE's process for prioritizing and recommending Legislative funding of city and county petitions for reimbursement of extraordinary disposal and compliance costs associated with PCB contamination of collected used oil. The amended bill allows the DOE's PCB best management practices to include components that are not explicitly listed in the bill.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Polychlorinated biphenyl contamination is federally regulated, and compliance with federal disposal requirements and civil penalties can be an unexpected financial burden on local governments that collect used oil. This bill presents a unique solution to the problem of PCB contamination of used oil collection sites, and will help encourage local governments to continue collecting used oil. The threat of large, unexpected, federally-issued penalties might especially discourage smaller, grant-reliant counties from continuing to collect used oil. Tiny amounts of PCBs are difficult to detect without a laboratory test, and can lead to huge costs if contaminated oil is mixed with larger volumes of previously uncontaminated oil. If local collection sites close, it might encourage illegal disposal via storm drains or in use as a dust-suppressant on roads. This bill builds on the partnership between the DOE and local governments in managing hazardous waste. The best management practices for preventing PCB contamination would be simple to develop. Cases of PCB contamination of used oil are rare, and this bill would not require the Legislature to fund any particular PCB contamination disposal or compliance costs.

(Opposed) None.

Persons Testifying: Senator Ericksen, prime sponsor; Gary Kato, City of Tacoma; and Laurie Davies, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.