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SENATE BILL 5546

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Ranker, Litzow, Fraser, Nelson, Billig, Cleveland, Kohl-Welles, and Shin

Read first time 02/04/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to floatation devices on state-owned aquatic lands  
2 and in state waters; amending RCW 90.48.020; adding a new section to  
3 chapter 90.48 RCW; adding a new section to chapter 79.105 RCW; adding  
4 a new section to chapter 77.55 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) The lightweight structure and floatation capacity of  
8 polystyrene foam, sometimes referred to as "styrofoam," has made it a  
9 popular material choice for dock construction, buoys, and other  
10 floatation devices in the marine environment.

11 (2) Polystyrene foam does not break down easily and never fully  
12 biodegrades. Instead, the foam fragments into smaller pieces, leaching  
13 toxins in the water and producing unsightly debris fields.

14 (3) Foam particles can be mistaken for food by fish and other  
15 wildlife, which may cause them to die from malnutrition and suffocation  
16 or may enter the human food chain when fish are caught and consumed.

17 (4) These problems can be avoided by ensuring that polystyrene foam  
18 used in the marine environment is encapsulated by a protective covering

1 or is designed to prevent the polystyrene from disintegrating into the  
2 waters of this state.

3 **Sec. 2.** RCW 90.48.020 and 2002 c 161 s 4 are each amended to read  
4 as follows:

5 ~~((Whenever the word))~~ The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Person" ~~((is used in this chapter, it shall be construed to))~~  
8 includes any political subdivision, government agency, municipality,  
9 industry, public or private corporation, copartnership, association,  
10 firm, individual, or any other entity whatsoever.

11 ~~((Wherever the words))~~ (2) "Waters of the state" ~~((shall be used in~~  
12 ~~this chapter, they shall be construed to))~~ includes lakes, rivers,  
13 ponds, streams, inland waters, underground waters, salt waters and all  
14 other surface waters and watercourses within the jurisdiction of the  
15 state of Washington.

16 ~~((Whenever the word))~~ (3) "Pollution" ~~((is used in this chapter, it~~  
17 ~~shall be construed to))~~ means such contamination, or other alteration  
18 of the physical, chemical, or biological properties, of any waters of  
19 the state, including change in temperature, taste, color, turbidity, or  
20 odor of the waters, or such discharge of any liquid, gaseous, solid,  
21 radioactive, or other substance into any waters of the state as will or  
22 is likely to create a nuisance or render such waters harmful,  
23 detrimental or injurious to the public health, safety, or welfare, or  
24 to domestic, commercial, industrial, agricultural, recreational, or  
25 other legitimate beneficial uses, or to livestock, wild animals, birds,  
26 fish or other aquatic life.

27 ~~((Wherever the word))~~ (4) "Department" ~~((is used in this chapter it~~  
28 ~~shall))~~ means the department of ecology.

29 ~~((Whenever the word))~~ (5) "Director" ~~((is used in this chapter it~~  
30 ~~shall))~~ means the director of ecology.

31 ~~((Whenever the words))~~ (6) "Aquatic noxious weed" ~~((are used in~~  
32 ~~this chapter, they have))~~ has the same meaning as prescribed under RCW  
33 17.26.020.

34 ~~((Whenever the words))~~ (7) "General sewer plan" ~~((are used in this~~  
35 ~~chapter they shall be construed to))~~ includes all sewerage general  
36 plans, sewer general comprehensive plans, plans for a system of

1 sewerage, and other plans for sewer systems adopted by a local  
2 government entity including but not limited to cities, towns, public  
3 utility districts, and water-sewer districts.

4 (8) "Encapsulated" means a protective covering or physical barrier  
5 between the polystyrene foam and the water.

6 (9) "Polystyrene foam" means any molded or expanded type of  
7 polystyrene foam used for floatation.

8 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW  
9 to read as follows:

10 (1) A person may not install polystyrene foam on a dock, buoy,  
11 float, or other floatation device unless the foam is encapsulated by a  
12 protective covering or is designed to prevent the polystyrene from  
13 disintegrating into the waters of the state.

14 (2) All existing installations of nonencapsulated polystyrene foam  
15 in the waters of the state must be removed or replaced by January 1,  
16 2015.

17 NEW SECTION. Sec. 4. A new section is added to chapter 79.105 RCW  
18 to read as follows:

19 The use of polystyrene foam for any new uses on state-owned aquatic  
20 lands including docks, floatation devices, or other structures or  
21 devices authorized by a lease, easement, right-of-way, or other  
22 authorizations is prohibited unless the foam is encapsulated as  
23 provided in section 3 of this act. For existing uses, the condition of  
24 any exposed or uncontained foam must be assessed by the department and  
25 removed by the tenant as soon as possible based on its condition. The  
26 department must determine the time frame for removal in consultation  
27 with the tenant, but in no event may removal occur later than January  
28 1, 2015.

29 NEW SECTION. Sec. 5. A new section is added to chapter 77.55 RCW  
30 to read as follows:

31 The department shall condition each permit issued after the  
32 effective date of this section to prohibit the use of polystyrene foam  
33 in the structures of devices to be constructed or operated pursuant to

1 the permit unless the foam is encapsulated as provided in section 3 of  
2 this act.

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