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SENATE BILL 6605

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State of Washington

64th Legislature

2016 Regular Session

By Senators Warnick, Becker, Brown, and Honeyford

Read first time 01/29/16. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to ensuring that solid waste management  
2 requirements prevent the spread of disease, plant pathogens, and  
3 pests; amending RCW 70.95.060, 70.95.165, 70.95.180, 70.95.185,  
4 70.95.190, 70.95.200, and 70.95.300; adding a new section to chapter  
5 70.95 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.95  
8 RCW to read as follows:

9 (1) Any local government that prohibits the disposal of food  
10 waste and compostable paper as garbage must ensure that any solid  
11 waste management plan it prepares under this chapter prevents the  
12 spread of disease, plant pathogens, and pests to areas that are not  
13 under a quarantine, as defined in RCW 17.24.007. A local government  
14 to which this section applies must consult with the department of  
15 agriculture to determine if the local government's solid waste  
16 management plan complies with this section prior to submitting the  
17 solid waste management plan to the department for approval under RCW  
18 70.95.094. Before a solid waste management plan may be approved, the  
19 department must receive a written statement from the department of  
20 agriculture stating that the solid waste management plan complies  
21 with this section. The department must require the department of

1 agriculture's written statement to be included in the final approved  
2 solid waste management plan.

3 (2) A local government to which this section applies must review  
4 and, if necessary, revise any existing solid waste management plan to  
5 ensure compliance with this section, no later than ninety days after  
6 the effective date of this section. A solid waste management plan  
7 that is revised under this subsection is subject to review and  
8 approval by the department.

9 (3) This section does not affect the authority of the department  
10 of agriculture under chapter 17.24 RCW.

11 **Sec. 2.** RCW 70.95.060 and 1999 c 116 s 1 are each amended to  
12 read as follows:

13 (1) The department shall adopt rules establishing minimum  
14 functional standards for solid waste handling, consistent with the  
15 standards specified in this section. The department may classify  
16 areas of the state with respect to population density, climate,  
17 geology, status under a quarantine, as defined in RCW 17.24.007 and  
18 other relevant factors bearing on solid waste disposal standards.

19 (2) In addition to the minimum functional standards adopted by  
20 the department under subsection (1) of this section, each landfill  
21 facility whose area at its design capacity will exceed one hundred  
22 acres and whose horizontal height at design capacity will average one  
23 hundred feet or more above existing site elevations shall comply with  
24 the standards of this subsection. This subsection applies only to  
25 wholly new solid waste landfill facilities, no part or unit of which  
26 has had construction commence before April 27, 1999.

27 (a) No landfill specified in this subsection may be located:

28 (i) So that the active area is closer than five miles to any  
29 national park or a public or private nonprofit zoological park  
30 displaying native animals in their native habitats; or

31 (ii) Over a sole source aquifer designated under the federal safe  
32 drinking water act, if such designation was effective before January  
33 1, 1999.

34 (b) Each landfill specified in this subsection (2) shall be  
35 constructed with an impermeable berm around the entire perimeter of  
36 the active area of the landfill of such height, thickness, and design  
37 as will be sufficient to contain all material disposed in the event  
38 of a complete failure of the structural integrity of the landfill.

1       **Sec. 3.**    RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 are each  
2 amended to read as follows:

3       (1) Each county or city siting a solid waste disposal facility  
4 shall review each potential site for conformance with the standards  
5 as set by the department for:

- 6       (a) Geology;
- 7       (b) Groundwater;
- 8       (c) Soil;
- 9       (d) Flooding;
- 10       (e) Surface water;
- 11       (f) Slope;
- 12       (g) Cover material;
- 13       (h) Capacity;
- 14       (i) Climatic factors;
- 15       (j) Land use;
- 16       (k) Toxic air emissions; and

17       (1) Other factors as determined by the department.

18       (2) The standards in subsection (1) of this section shall be  
19 designed to use the best available technology to protect the  
20 environment and human health, and shall be revised periodically to  
21 reflect new technology and information, including information  
22 relating to preventing the spread of disease, plant pathogens, and  
23 pests to areas that are not under a quarantine, as defined in RCW  
24 17.24.007.

25       (3) Each county shall establish a local solid waste advisory  
26 committee to assist in the development of programs and policies  
27 concerning solid waste handling and disposal and to review and  
28 comment upon proposed rules, policies, or ordinances prior to their  
29 adoption. Such committees shall consist of a minimum of nine members  
30 and shall represent a balance of interests including, but not limited  
31 to, citizens, public interest groups, business, the waste management  
32 industry, agriculture, and local elected public officials. The  
33 members shall be appointed by the county legislative authority. A  
34 county or city shall not apply for funds from the state and local  
35 improvements revolving account, Waste Disposal Facilities, 1980,  
36 under RCW 43.83.350, for the preparation, update, or major amendment  
37 of a comprehensive solid waste management plan unless the plan or  
38 revision has been prepared with the active assistance and  
39 participation of a local solid waste advisory committee.

1       **Sec. 4.** RCW 70.95.180 and 1997 c 213 s 3 are each amended to  
2 read as follows:

3       (1) Applications for permits to operate a new or modified solid  
4 waste handling facility shall be on forms prescribed by the  
5 department and shall contain a description of the proposed facilities  
6 and operations at the site, plans and specifications for any new or  
7 additional facilities to be constructed, and such other information  
8 as the jurisdictional health department may deem necessary in order  
9 to determine whether the site and solid waste disposal facilities  
10 located thereon will comply with local regulations and state  
11 (~~regulations~~) rules.

12       (2) Upon receipt of an application for a permit to establish or  
13 modify a solid waste handling facility, the jurisdictional health  
14 department shall refer one copy of the application to the department  
15 and one copy of the application to the department of agriculture,  
16 each of which shall report its findings to the jurisdictional health  
17 department. The department of agriculture's findings are limited to  
18 determining whether the application contains information  
19 demonstrating that the proposed facility presents a risk of spreading  
20 disease, plant pathogens, and pests to areas that are not under a  
21 quarantine, as defined in RCW 17.24.007.

22       (3) The jurisdictional health department shall investigate every  
23 application as may be necessary to determine whether a proposed or  
24 modified site and facilities meet all solid waste, air, and other  
25 applicable laws and regulations, and conforms with the approved  
26 comprehensive solid waste handling plan, and complies with all zoning  
27 requirements.

28       (4) When the jurisdictional health department finds that the  
29 permit should be issued, it shall issue such permit. Every  
30 application shall be approved or disapproved within ninety days after  
31 its receipt by the jurisdictional health department.

32       (5) The jurisdictional board of health may establish reasonable  
33 fees for permits and renewal of permits. All permit fees collected by  
34 the health department shall be deposited in the treasury and to the  
35 account from which the health department's operating expenses are  
36 paid.

37       **Sec. 5.** RCW 70.95.185 and 1984 c 123 s 8 are each amended to  
38 read as follows:

1 Every permit issued by a jurisdictional health department under  
2 RCW 70.95.180 shall be reviewed by the department and the department  
3 of agriculture to ensure that the proposed site or facility conforms  
4 with:

5 (1) All applicable laws and regulations including the minimal  
6 functional standards for solid waste handling; (~~and~~)

7 (2) The approved comprehensive solid waste management plan; and

8 (3) All applicable laws and regulations relating to preventing  
9 the spread of disease, plant pathogens, and pests to areas that are  
10 not under a quarantine, as defined in RCW 17.24.007.

11 The department shall review the permit within thirty days after  
12 the issuance of the permit by the jurisdictional health department.  
13 The department's review of a permit under this section is limited to  
14 determining whether the proposed site or facility conforms with  
15 subsections (1) and (2) of this section. The department may appeal  
16 the issuance of the permit by the jurisdictional health department to  
17 the pollution control hearings board, as described in chapter 43.21B  
18 RCW, for noncompliance with subsection (1) or (2) of this section.

19 The department of agriculture shall review the permit within  
20 thirty days after the issuance of the permit by the jurisdictional  
21 health department. The department of agriculture's review of a permit  
22 under this section shall be limited to determining whether the  
23 proposed site or facility conforms with subsection (3) of this  
24 section. The department of agriculture may appeal the issuance of the  
25 permit by the jurisdictional health department to the pollution  
26 control hearings board, as described in chapter 43.21B RCW, for  
27 noncompliance with subsection (3) of this section.

28 No permit issued pursuant to RCW 70.95.180 after (~~June 7,~~  
29 ~~1984,~~) the effective date of this section shall be considered valid  
30 unless it has been reviewed by the department and the department of  
31 agriculture.

32 **Sec. 6.** RCW 70.95.190 and 1998 c 156 s 4 are each amended to  
33 read as follows:

34 (1) Every permit for an existing solid waste handling facility  
35 issued pursuant to RCW 70.95.180 shall be renewed at least every five  
36 years on a date established by the jurisdictional health department  
37 having jurisdiction of the site and as specified in the permit. If a  
38 permit is to be renewed for longer than one year, the local  
39 jurisdictional health department may hold a public hearing before

1 making such a decision. Prior to renewing a permit, the health  
2 department shall conduct a review as it deems necessary to assure  
3 that the solid waste handling facility or facilities located on the  
4 site continues to meet minimum functional standards of the  
5 department, applicable local regulations, and are not in conflict  
6 with the approved solid waste management plan. A jurisdictional  
7 health department shall approve or disapprove a permit renewal within  
8 forty-five days of conducting its review. The department and the  
9 department of agriculture shall review and may appeal the renewal as  
10 set forth for the approval of permits in RCW 70.95.185.

11 (2) The jurisdictional board of health may establish reasonable  
12 fees for permits reviewed under this section. All permit fees  
13 collected by the health department shall be deposited in the treasury  
14 and to the account from which the health department's operating  
15 expenses are paid.

16 **Sec. 7.** RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended  
17 to read as follows:

18 Any permit for a solid waste disposal site issued as provided  
19 herein shall be subject to suspension at any time the jurisdictional  
20 health department determines that the site or the solid waste  
21 disposal facilities located on the site are being operated in  
22 violation of this chapter, (~~(or)~~) the regulations of the department,  
23 the rules of the department of agriculture, or local laws and  
24 regulations.

25 **Sec. 8.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to  
26 read as follows:

27 (1) The department may by rule exempt a solid waste from the  
28 permitting requirements of this chapter for one or more beneficial  
29 uses. In adopting such rules, the department shall specify both the  
30 solid waste that is exempted from the permitting requirements and the  
31 beneficial use or uses for which the solid waste is so exempted. The  
32 department shall consider: (a) Whether the material will be  
33 beneficially used or reused; and (b) whether the beneficial use or  
34 reuse of the material will present threats to human health or the  
35 environment.

36 (2) The department may also exempt a solid waste from the  
37 permitting requirements of this chapter for one or more beneficial  
38 uses by approving an application for such an exemption. The

1 department shall establish by rule procedures under which a person  
2 may apply to the department for such an exemption. The rules shall  
3 establish criteria for providing such an exemption, which shall  
4 include, but not be limited to: (a) The material will be beneficially  
5 used or reused; and (b) the beneficial use or reuse of the material  
6 will not present threats to human health or the environment. Rules  
7 adopted under this subsection shall identify the information that an  
8 application shall contain. Persons seeking such an exemption shall  
9 apply to the department under the procedures established by the rules  
10 adopted under this subsection.

11 (3) After receipt of an application filed under rules adopted  
12 under subsection (2) of this section, the department shall review the  
13 application to determine whether it is complete, and forward a copy  
14 of the completed application to all jurisdictional health departments  
15 and the department of agriculture for review and comment. Within  
16 forty-five days, the jurisdictional health departments and the  
17 department of agriculture shall forward to the department their  
18 comments and any other information they deem relevant to the  
19 department's decision to approve or disapprove the application. The  
20 department of agriculture's comments must address whether approving  
21 the application risks spreading disease, plant pathogens, and pests  
22 to areas that are not under a quarantine, as defined in RCW  
23 17.24.007. Every complete application shall be approved or  
24 disapproved by the department within ninety days of receipt. If the  
25 application is approved by the department, the solid waste is exempt  
26 from the permitting requirements of this chapter when used anywhere  
27 in the state in the manner approved by the department. If the  
28 composition, use, or reuse of the solid waste is not consistent with  
29 the terms and conditions of the department's approval of the  
30 application, the use of the solid waste remains subject to the  
31 permitting requirements of this chapter.

32 (4) The department shall establish procedures by rule for  
33 providing to the public and the solid waste industry notice of and an  
34 opportunity to comment on each application for an exemption under  
35 subsection (2) of this section.

36 (5) Any jurisdictional health department, the department of  
37 agriculture, or applicant may appeal the decision of the department  
38 to approve or disapprove an application under subsection (3) of this  
39 section. The appeal shall be made to the pollution control hearings  
40 board by filing with the hearings board a notice of appeal within

1 thirty days of the decision of the department. The hearings board's  
2 review of the decision shall be made in accordance with chapter  
3 43.21B RCW and any subsequent appeal of a decision of the board shall  
4 be made in accordance with RCW 43.21B.180.

5 (6) This section shall not be deemed to invalidate the exemptions  
6 or determinations of nonapplicability in the department's solid waste  
7 rules as they exist on June 11, 1998, which exemptions and  
8 determinations are recognized and confirmed subject to the  
9 department's continuing authority to modify or revoke those  
10 exemptions or determinations by rule.

11 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of  
13 the state government and its existing public institutions, and takes  
14 effect immediately.

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