

---

## Environment Committee

---

### HB 1028

**Brief Description:** Reducing air pollution associated with asphalt production in urban areas.

**Sponsors:** Representatives Pollet, Farrell and Appleton.

#### Brief Summary of Bill

- Authorizes cities planning under the Growth Management Act to adopt ordinances restricting certain activities of asphalt production facilities in response to nuisances or complaints regarding perceived nuisances.
- Authorizes cities planning under the Growth Management Act to adopt ordinances that require vehicles transporting asphalt loads to cover the load.

**Hearing Date:** 1/9/17

**Staff:** Jacob Lipson (786-7196).

#### **Background:**

##### Clean Air Laws.

The Department of Ecology (ECY) and seven local air pollution control authorities (local air authorities) have each received approval from the United States Environmental Protection Agency (EPA) to administer aspects of the federal Clean Air Act in Washington. Local clean air agencies have primary responsibility for administering the state and federal Clean Air Acts in counties which have elected to activate a local air authority or to form a multicounty air authority; in other areas of the state, the ECY is responsible for administering state and federal Clean Air Act programs. Civil penalties of up to \$10,000 per violation are authorized by the state Clean Air Act.

Under state clean air laws, cities, counties, and towns retain power to declare, prohibit, and abate nuisances as defined in either statutory or common law. Among the public nuisances specifically enumerated in statute are manufacturing or employment activities that produce obnoxious

---

*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.*

exhalations, offensive smells, or that are otherwise offensive or dangerous to individual or public health.

### Rules of the Road.

State law establishes a variety of rules governing the operation of motor vehicles on public roads, including a requirement that vehicles on public roads secure their loads to prevent loads from dropping, sifting, leaking, or otherwise escaping. Categories of public roads addressed in state law include state highways, which are routes specifically designated by the Legislature, city streets, and county roads. State law generally grants local governments the authority to establish traffic standards that differ from the model traffic ordinance adopted by the Department of Transportation, except in aspects of state traffic law that specifically prohibit disparate local regulation.

A failure to follow state traffic rules and equivalent local laws is generally a traffic infraction subject to penalties of up to \$250, plus additional fees added to the base penalty. The State Supreme Court adopts a schedule of penalties applicable to traffic infractions, and updates that schedule every two years.

### Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA. The GMA directs jurisdictions that fully plan under the Act to adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body.

### **Summary of Bill:**

Cities fully planning under the GMA are authorized to adopt ordinances regulating aspects of asphalt production for purposes of addressing nuisances or complaints regarding perceived nuisances. An ordinance may require an asphalt facility to enclose parts of its production line, including truck loading facilities. An ordinance may require an enclosed asphalt production facility to reduce emissions through the adoption of best management practices or emissions controls. Violations of an ordinance are subject to state Clean Air Act penalties.

Cities fully planning under the GMA are authorized to adopt ordinances that require asphalt loads to be covered. Cities may extend an asphalt load-covering ordinance to apply to all roads in the city, including state highways. A city that adopts an ordinance must post signage related to the requirements at any point where state highways enter city limits. Ordinances may not apply to loads of non-petroleum aggregate used in asphalt production. Violations of an ordinance are subject to penalties in state law for traffic infractions.

**Appropriation:** None.

**Fiscal Note:** Available.

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