

FINAL BILL REPORT

SHB 1290

C 95 L 19
Synopsis as Enacted

Brief Description: Concerning reviews of voluntary cleanups.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Peterson, Barkis, Robinson, Lekanoff, Maycumber and Pollet; by request of Department of Ecology).

House Committee on Environment & Energy
House Committee on Appropriations
Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means

Background:

The Model Toxics Control Act.

The stated primary purpose of the Model Toxics Control Act (MTCA) is raising "sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's lands and waters." The MTCA also grants the Department of Ecology (Ecology) authority to develop rules and oversee the cleanups done by public and private entities throughout the state.

Hazardous Waste Sites.

A hazardous waste site under the MTCA is any site where Ecology has confirmed a release or a threatened release of a hazardous substance that requires remedial action. A site is defined by the nature and extent of contamination associated with one or more releases of hazardous substances.

The Model Toxics Control Act Site Cleanup Process.

Cleanups of hazardous waste sites under the MTCA can be conducted in one of three general ways:

- independent cleanups, in which the property owner cleans up the property independently, either with or without Ecology consultation;
- Ecology-supervised cleanups, in which Ecology supervises a cleanup conducted by a potentially liable person under either an administrative order or a court-approved consent decree; or

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- Ecology-conducted cleanups, in which Ecology conducts the cleanup under a state contract, such as when no potentially liable person can be identified, or when such persons are unable or unwilling to pay for the cleanup.

Independent Cleanups—Cleanup Without the Department of Ecology Consultation.

Under a non-Ecology supervised cleanup, the property owner determines the cleanup schedule, as well as the scope and extent of the cleanup. However, Ecology will not provide an opinion on the sufficiency of the cleanup. Independent cleanups do not require public notice.

Independent Cleanups—Cleanup with Ecology Consultation.

As with an independent cleanup without Ecology consultation, the property owner determines the cleanup schedule, as well as the scope and extent of the cleanup. However, through the MTCA's Voluntary Cleanup Program, a property owner may request technical assistance and an opinion on the sufficiency of the cleanup from Ecology. The Department of Ecology is authorized to collect from property owners the costs Ecology incurred in providing advice and assistance, but Ecology must, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. Based on the review, Ecology either issues a letter stating that the site needs no further action or identifies what additional work is needed.

Summary:

Expedited Process for Technical Assistance.

The Department of Ecology (Ecology) may offer an expedited process for providing informal advice and assistance. For requests for informal advice and assistance under the expedited process, Ecology must collect all costs incurred by Ecology in providing the advice and assistance. The Department of Ecology may establish conditions for requesting expedited advice and assistance. The Department of Ecology must track the length of time that elapses between the submission of a request for expedited assistance at a facility and the issuance of a letter on the sufficiency of the cleanup at the facility.

Waiver of Costs—Generally.

The Department of Ecology is authorized to waive costs for advice and assistance in the following general circumstances:

- for providing technical assistance in support of public participation;
- for providing written opinions on a cleanup that qualifies for and appropriately uses a model remedy; or
- based on a person's ability to pay.

If costs are waived, Ecology is authorized to file a lien against the real property for which Ecology has incurred the costs.

Waiver of Costs for Affordable Housing.

The Department of Ecology may waive collection of informal advice and assistance costs if the person requesting the assistance commits to remediate contaminated real property for development of affordable housing, as determined by Ecology. Prior to waiving costs, Ecology must consider the requestor's ability to pay and the public benefit of the

development. To ensure the property is used for affordable housing, Ecology is authorized to file a lien against the property, require the person to record an interest in the real property, or use other means to ensure the property is used for affordable housing.

Votes on Final Passage:

House 98 0

Senate 47 0

Effective: July 28, 2019