

SENATE BILL REPORT

2SHB 1551

As Reported by Senate Committee On:
Environment, Energy & Technology, February 21, 2024
Ways & Means, February 26, 2024

Title: An act relating to reducing lead in cookware.

Brief Description: Reducing lead in cookware.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Pollet, Doglio, Fitzgibbon, Berry, Gregerson, Fosse and Bateman).

Brief History: Passed House: 2/13/24, 97-0.

Committee Activity: Environment, Energy & Technology: 2/20/24, 2/21/24 [DP-WM].
Ways & Means: 2/24/24, 2/26/24 [DP, w/oRec].

Brief Summary of Bill

- Restricts the manufacture, distribution, and sale of cookware containing lead at a level exceeding 5 parts per million (ppm) in the cookware or any component of the cookware.
- Authorizes the Department of Ecology (Ecology), in consultation with the Department of Health, to lower the 5 ppm limit, beginning in 2035, if determined to be feasible for manufacturers to achieve and necessary to protect human health.
- Authorizes Ecology to adopt rules, and prescribes penalties for violations of up to \$5,000 for an initial violation and \$10,000 for subsequent violations.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Boehnke, Lovick, Short, Trudeau and Wellman.

Staff: Adam Brunmeier (786-7357)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Gildon, Assistant Ranking Member, Operating; Rivers, Assistant Ranking Member, Capital; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member, Operating; Schoesler, Ranking Member, Capital; Boehnke, Braun and Muzzall.

Staff: Jed Herman (786-7346)

Background: Regulation of Lead in Consumer Products. State law restricts lead in various consumer products:

- under the Children's Safe Products Act, lead is restricted in children's products at a level of 40 parts per million (ppm).
- lead wheel weights must be replaced with environmentally preferred wheel weights whenever tires are replaced or rebalanced.
- concentrations of lead, cadmium, mercury, and hexavalent chromium must not exceed a sum of 100 ppm in a package or packaging component.

Other state programs related to lead in the environment include provisions related to the recycling of lead-acid vehicle batteries, certification programs for persons performing lead-based paint abatement, and programs to limit the presence of lead in drinking water.

Pollution Control Hearings Board. The Pollution Control Hearings Board (PCHB) is an administrative hearings board which reviews certain decisions by state agencies and local governments. Aggrieved parties may petition the PCHB for appeal of decisions, such as the issuance of penalties, that fall within their jurisdiction.

Summary of Bill: Beginning January 1, 2026:

- manufacturers and wholesalers may not manufacture, distribute, or sell or offer for sale cookware or cookware components containing lead or lead compounds at a level exceeding 5 ppm; and
- retailers may not knowingly sell or knowingly offer for sale cookware or cookware components containing lead or lead compounds at a level exceeding 5 ppm.

These restrictions do not apply to sales of previously owned cookware in casual and isolated

sales or by nonprofit organizations.

After December 2034, the Department of Ecology (Ecology), in consultation with the Department of Health, may lower the 5 ppm limit by rule if Ecology determines that a lower limit is feasible for cookware and cookware component manufacturers to achieve, and is necessary to protect human health, including the health of vulnerable populations.

Ecology may adopt rules pertaining to implementation, administration, and enforcement of restrictions on lead in cookware. Violations of requirements, rules, or orders are subject to civil penalties of up to \$5,000 for each violation for an initial offense, and \$10,000 for each repeat offense. Penalties and orders are appealable to the Pollution Control Hearings Board, and penalty collections are deposited into the Model Toxics Control Account.

A severability clause is included.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Environment, Energy & Technology): PRO: High levels of lead exposure have been discovered in immigrant communities. Afghan refugee children have been particularly impacted. No level of lead exposure is safe. Even small exposures can cause serious problems including in the development of the brain and nervous system. When exposed at a young age, children may develop shorter attention spans or experience difficulty in reading or learning. The exposure has been tracked to cookware products which are available on the market today. Efforts have been undertaken to educate members of the Afghan community about the dangerous levels of lead in these cookware products and to dispose of them. This bill will help offer additional levels of protection.

OTHER: The work required in this bill is not covered by the Governor's budget. There are currently no laws in Washington State restricting lead in cookware. Ecology currently does not possess the authority to regulate lead in cookware. It is important to remove all sources of lead. We find the refugees from Afghanistan suffer from high levels of lead exposure and that this can be attributed to cookware. Safer cookware alternatives include stainless steel and the NSF certified aluminum. There are concerns for the hierarchy of responsibility proposed in the bill, retailers and wholesalers should not be held to the same standard as manufacturers. The lead limit at 5 ppm currently exceeds testing capabilities, recommend adjusting to federal or other state standards such as Montana's lead and cadmium law.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Gerry Pollet, Prime Sponsor; Megan Liu, Toxic-Free Future; Reza Pedram, Afghan Health Initiative; Katie Fellows, Hazardous Waste Management Program, Seattle & King County.

OTHER: Holly Davies, Washington State Department of Health; Kimberly Goetz, Department of Ecology; Crystal Leatherman, Washington Retail Association.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: We support this bill, there needs to be limited exposure to lead for children. There is no minimum amount of lead exposure that is safe. Our children have tested high for levels of lead in their blood stream, we know it came from cookware.

OTHER: To the question of how would this be enforced, we would start with notification and follow up with testing. We built in an assumption for education in our fiscal note. I don't know of any consumer-based testing available for lead. We think you should align your bill with other states like Minnesota.

Persons Testifying (Ways & Means): PRO: Katie Fellows, Hazardous Waste Management Program, Seattle & King County; Reza Pedram, Afghan Health Initiative.

OTHER: Kimberly Goetz, Department of Ecology; Crystal Leatherman, Washington Retail Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.