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**SUBSTITUTE HOUSE BILL 1554**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Doglio, Pollet, Fitzgibbon, Berry, Ramel, Orwall, Ryu, Fosse, Kloba, Macri, and Duerr)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to reducing public health and environmental  
2 impacts from lead; amending RCW 43.21B.110 and 43.21B.300; adding a  
3 new section to chapter 43.70 RCW; adding a new section to chapter  
4 70A.15 RCW; adding a new chapter to Title 70A RCW; prescribing  
5 penalties; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that even though  
8 lead is a widely recognized hazard to human health and to the  
9 environment, and leaded motor vehicle gasoline was phased out across  
10 the United States decades ago, leaded gasoline remains in widespread  
11 use at general aviation airports by piston engine noncommercial  
12 aircraft. Recent studies have found elevated levels of lead in the  
13 blood of residents, and particularly worryingly in the blood of  
14 children residing in general aviation airport communities, for whom  
15 lead is especially harmful to their development. There is consensus  
16 among the medical and scientific communities that the levels detected  
17 in children living around general airports similar to those in  
18 Washington are hazardous. The national academies of sciences,  
19 engineering, and medicine in 2015 concluded that lead "is a well-  
20 known air pollutant that can lead to a variety of adverse health

1 impacts, including neurological effects in children that lead to  
2 behavioral problems, learning deficits, and lowered IQ."

3 (2) The United States environmental protection agency has  
4 recently taken steps towards making an endangerment finding that may  
5 eventually lead, through a complex federal regulatory process  
6 involving the United States federal aviation administration, to the  
7 elimination of lead from aviation gasoline. That unfolding federal  
8 process is too slow to adequately protect those currently living near  
9 general aviation airports from the harms of lead.

10 (3) Therefore, it is the intent of the legislature to take steps  
11 to mitigate public health and environmental harms caused by the use  
12 of leaded gasoline at airports, and to expedite the transition to the  
13 use of unleaded aviation gasoline.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply  
15 throughout this chapter unless the context clearly requires  
16 otherwise.

17 (1) "Airport" has the same meaning as defined in RCW 47.68.020.

18 (2) "Airport operator" means a county, city, government agency,  
19 port district, or other person that owns or operates an airport.

20 (3) "Aviation gasoline" means gasoline sold for use in an  
21 aircraft.

22 (4) "Aviation retail establishment" means any public or private  
23 entity who sells aviation gasoline or offers or otherwise makes  
24 available aviation gasoline to a customer, including other businesses  
25 or government entities, for use in this state.

26 (5) "Department" means the department of ecology.

27 (6) "Leaded aviation gasoline" means aviation gasoline to which  
28 lead has been intentionally added.

29 (7) "Overburdened community" has the same meaning as in RCW  
30 70A.02.010.

31 (8) "Pertinent air quality regulator" means an air pollution  
32 control authority formed under chapter 70A.15 RCW in areas where an  
33 authority has been activated, or the department in areas in which an  
34 air pollution control authority has not been activated.

35 (9) "Unleaded aviation gasoline" means aviation gasoline to which  
36 no lead has been intentionally added.

37 (10) "Vulnerable population" has the same meaning as in RCW  
38 70A.02.010.

1        NEW SECTION.    **Sec. 3.**    (1)(a) The department of transportation,  
2 in consultation with the department, must develop simple guidance  
3 that can easily and quickly be implemented by airport operators to  
4 minimize public health and environmental exposures to lead associated  
5 with airport operations. It is the intent of the legislature for this  
6 guidance, in the form of a document, to prioritize actions that can  
7 be taken by airport operators most quickly and easily to achieve  
8 meaningful reductions in lead exposures from airport operations, and  
9 with priority given to actions capable of being implemented in the  
10 shorter term and that will not be unduly costly or time-consuming to  
11 implement, in light of the expectation that alternative lead-free  
12 aviation gasoline is anticipated to become more widely available  
13 within a decade. The guidance document must be based upon the 2021  
14 consensus study report of the national academies of sciences,  
15 engineering, and medicine related to options for reducing lead  
16 emissions from piston-engine aircraft. The department of  
17 transportation may consult with the department of health and local  
18 air authorities activated under chapter 70A.15 RCW in the development  
19 of guidance under this section.

20        (b) The department of transportation must publish initial  
21 guidance to airport operators by July 1, 2024.

22        (c) The department of transportation must review the guidance  
23 required in (b) of this subsection and publish updated guidance under  
24 this section by July 1, 2026, and may periodically update its review  
25 and guidance thereafter.

26        (2) In developing the guidance under subsection (1) of this  
27 section, the department of transportation must include high-priority  
28 actions that airport operators will be able to expeditiously  
29 implement and that will achieve the most significant lead exposure  
30 reductions, including:

31        (a) Methods to increase the distance between run-up areas and  
32 public areas on or off the airport and recommendations for how an  
33 airport operator may increase the size of run-up areas;

34        (b) Mechanisms to eliminate the cast-off of leaded aviation  
35 gasoline, which must include the provision of a container for the  
36 deposit of unwanted gasoline from preflight sampling, and education  
37 and signage to inform airport users of the prohibition on spilling  
38 unwanted sampled gasoline on the ground; and

39        (c) The establishment of standardized time limits on airport  
40 engine run-up and idling.

1 (3) In addition to the lead exposure reduction provisions  
2 included in subsection (2) of this section, the department of  
3 transportation may include in the initial or updated guidance other  
4 high-priority actions to:

5 (a) Minimize airport employee exposures;

6 (b) Minimize releases of leaded aviation gasoline caused by  
7 refueling and maintenance activities at the airport, including  
8 processes used to store and dispense aviation gasoline at the  
9 airport; and

10 (c) Educate and financially incentivize airport fuel consumers  
11 that have the option to purchase and use unleaded aviation gasoline  
12 at the airport to do so.

13 NEW SECTION. **Sec. 4.** (1) By November 1, 2024, or within four  
14 months of the initial publication of guidance by the department under  
15 section 3 of this act, whichever is later, each airport operator must  
16 submit to the pertinent air quality regulator and begin implementing  
17 a plan to implement best practices identified by the national  
18 academies of sciences, engineering, and medicine designed to minimize  
19 environmental impacts and public health risks associated with leaded  
20 aviation gasoline use at general aviation airports. Each airport  
21 operator must update its plan by the November 1st following an  
22 updated publication of the guidance issued under section 3 of this  
23 act. At a minimum, each airport operator must include in its plan:

24 (a) A description of how the airport operator plans to implement  
25 the operational and logistical contents of the guidance issued under  
26 section 3 of this act, including a description of how the airport  
27 operator will ensure that airport users adhere to the standards  
28 established to reduce environmental and public health exposures to  
29 lead; and

30 (b) A plan and budget for the financing of any needed fueling  
31 infrastructure improvements at the airport to allow for the airport  
32 to begin supplying unleaded aviation gasoline.

33 (2) By December 1, 2025, and each December 1st thereafter, each  
34 airport operator must provide a brief status report to the pertinent  
35 air quality regulator regarding its implementation of the plan under  
36 this section, including the status of planning and investments to  
37 facilitate the supply of unleaded aviation gasoline at the airport.

38 (3) The requirements of this section do not apply to the operator  
39 of an airport at which leaded aviation gasoline is not sold,

1 distributed, or otherwise made available. An airport operator at  
2 which leaded aviation gasoline ceases to be sold, distributed, or  
3 otherwise made available must notify the pertinent air quality  
4 regulator within 30 days of the cessation of the use of leaded  
5 aviation gasoline at the airport.

6 (4) An airport operator may temporarily suspend the  
7 implementation of the guidance under this section in the event of a  
8 federal, state, or local declaration of an emergency or a disaster.

9 NEW SECTION. **Sec. 5.** (1) The pertinent air quality regulator,  
10 in consultation with the department of transportation and the  
11 department of health, must offer technical assistance consistent with  
12 RCW 43.21A.085 and 43.21A.087 to a person that has not submitted a  
13 plan that meets the requirements of section 4 of this act or that  
14 does not implement the plan submitted to the department under section  
15 4 of this act in the manner described in the plan.

16 (2) The department may adopt rules to implement, administer, and  
17 enforce the requirements of this section. An air pollution control  
18 authority formed under chapter 70A.15 RCW must enforce the  
19 requirements of this chapter in areas within its jurisdiction and the  
20 department must enforce the requirements of this chapter in areas of  
21 the state in which no air pollution control authority has been formed  
22 under chapter 70A.15 RCW.

23 (3) A person who remains in violation of the requirements of  
24 section 4 of this act 30 days after the offer of technical assistance  
25 under subsection (1) of this section is subject to a civil penalty of  
26 up to \$10,000 per day of continued noncompliance. In setting  
27 penalties, the pertinent air quality regulator may consider the  
28 proximity of the airport to overburdened communities identified by  
29 the department or vulnerable populations.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70  
31 RCW to read as follows:

32 The department must update its blood lead testing guidance for  
33 health care providers related to children living near airports at  
34 which aviation gasoline is used. The update must include children at  
35 risk of lead exposure due to airport operations among the high-risk  
36 populations broadly recommended for a blood lead test, without  
37 respect to the clinical judgment of the health care provider. For  
38 purposes of determining which children are at highest risk of lead

1 exposure due to airport operations, the department must consider  
2 including children living, attending day care, preschool, or school  
3 within one kilometer of a general aviation airport, among other  
4 populations. The department must conduct outreach with and provide  
5 information to health care providers about the guidance.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 70A.15  
7 RCW to read as follows:

8 An activated authority has a duty to enforce the requirements of  
9 chapter 70A.--- RCW (the new chapter created in section 10 of this  
10 act) in the areas within its jurisdiction.

11 **Sec. 8.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
12 read as follows:

13 (1) The hearings board shall only have jurisdiction to hear and  
14 decide appeals from the following decisions of the department, the  
15 director, local conservation districts, the air pollution control  
16 boards or authorities as established pursuant to chapter 70A.15 RCW,  
17 local health departments, the department of natural resources, the  
18 department of fish and wildlife, the parks and recreation commission,  
19 and authorized public entities described in chapter 79.100 RCW:

20 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
21 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
22 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
23 70A.65.200, 70A.455.090, section 5 of this act, 76.09.170, 77.55.440,  
24 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
25 90.56.330, and 90.64.102.

26 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
27 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
28 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
29 90.48.120, and 90.56.330.

30 (c) Except as provided in RCW 90.03.210(2), the issuance,  
31 modification, or termination of any permit, certificate, or license  
32 by the department or any air authority in the exercise of its  
33 jurisdiction, including the issuance or termination of a waste  
34 disposal permit, the denial of an application for a waste disposal  
35 permit, the modification of the conditions or the terms of a waste  
36 disposal permit, or a decision to approve or deny an application for  
37 a solid waste permit exemption under RCW 70A.205.260.

1 (d) Decisions of local health departments regarding the grant or  
2 denial of solid waste permits pursuant to chapter 70A.205 RCW.

3 (e) Decisions of local health departments regarding the issuance  
4 and enforcement of permits to use or dispose of biosolids under RCW  
5 70A.226.090.

6 (f) Decisions of the department regarding waste-derived  
7 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
8 decisions of the department regarding waste-derived soil amendments  
9 under RCW 70A.205.145.

10 (g) Decisions of local conservation districts related to the  
11 denial of approval or denial of certification of a dairy nutrient  
12 management plan; conditions contained in a plan; application of any  
13 dairy nutrient management practices, standards, methods, and  
14 technologies to a particular dairy farm; and failure to adhere to the  
15 plan review and approval timelines in RCW 90.64.026.

16 (h) Any other decision by the department or an air authority  
17 which pursuant to law must be decided as an adjudicative proceeding  
18 under chapter 34.05 RCW.

19 (i) Decisions of the department of natural resources, the  
20 department of fish and wildlife, and the department that are  
21 reviewable under chapter 76.09 RCW, and the department of natural  
22 resources' appeals of county, city, or town objections under RCW  
23 76.09.050(7).

24 (j) Forest health hazard orders issued by the commissioner of  
25 public lands under RCW 76.06.180.

26 (k) Decisions of the department of fish and wildlife to issue,  
27 deny, condition, or modify a hydraulic project approval permit under  
28 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
29 comply, to issue a civil penalty, or to issue a notice of intent to  
30 disapprove applications.

31 (l) Decisions of the department of natural resources that are  
32 reviewable under RCW 78.44.270.

33 (m) Decisions of an authorized public entity under RCW 79.100.010  
34 to take temporary possession or custody of a vessel or to contest the  
35 amount of reimbursement owed that are reviewable by the hearings  
36 board under RCW 79.100.120.

37 (n) Decisions of the department of ecology that are appealable  
38 under RCW 70A.245.020 to set recycled minimum postconsumer content  
39 for covered products or to temporarily exclude types of covered

1 products in plastic containers from minimum postconsumer recycled  
2 content requirements.

3 (o) Orders by the department of ecology under RCW 70A.455.080.

4 (2) The following hearings shall not be conducted by the hearings  
5 board:

6 (a) Hearings required by law to be conducted by the shorelines  
7 hearings board pursuant to chapter 90.58 RCW.

8 (b) Hearings conducted by the department pursuant to RCW  
9 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
10 70A.15.3110, and 90.44.180.

11 (c) Appeals of decisions by the department under RCW 90.03.110  
12 and 90.44.220.

13 (d) Hearings conducted by the department to adopt, modify, or  
14 repeal rules.

15 (3) Review of rules and regulations adopted by the hearings board  
16 shall be subject to review in accordance with the provisions of the  
17 administrative procedure act, chapter 34.05 RCW.

18 **Sec. 9.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
19 read as follows:

20 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
21 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
22 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 5 of this  
23 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
24 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
25 a notice in writing, either by certified mail with return receipt  
26 requested or by personal service, to the person incurring the penalty  
27 from the department or the local air authority, describing the  
28 violation with reasonable particularity. For penalties issued by  
29 local air authorities, within 30 days after the notice is received,  
30 the person incurring the penalty may apply in writing to the  
31 authority for the remission or mitigation of the penalty. Upon  
32 receipt of the application, the authority may remit or mitigate the  
33 penalty upon whatever terms the authority in its discretion deems  
34 proper. The authority may ascertain the facts regarding all such  
35 applications in such reasonable manner and under such rules as it may  
36 deem proper and shall remit or mitigate the penalty only upon a  
37 demonstration of extraordinary circumstances such as the presence of  
38 information or factors not considered in setting the original  
39 penalty.

1 (2) Any penalty imposed under this section may be appealed to the  
2 pollution control hearings board in accordance with this chapter if  
3 the appeal is filed with the hearings board and served on the  
4 department or authority 30 days after the date of receipt by the  
5 person penalized of the notice imposing the penalty or 30 days after  
6 the date of receipt of the notice of disposition by a local air  
7 authority of the application for relief from penalty.

8 (3) A penalty shall become due and payable on the later of:

9 (a) Thirty days after receipt of the notice imposing the penalty;

10 (b) Thirty days after receipt of the notice of disposition by a  
11 local air authority on application for relief from penalty, if such  
12 an application is made; or

13 (c) Thirty days after receipt of the notice of decision of the  
14 hearings board if the penalty is appealed.

15 (4) If the amount of any penalty is not paid to the department  
16 within 30 days after it becomes due and payable, the attorney  
17 general, upon request of the department, shall bring an action in the  
18 name of the state of Washington in the superior court of Thurston  
19 county, or of any county in which the violator does business, to  
20 recover the penalty. If the amount of the penalty is not paid to the  
21 authority within 30 days after it becomes due and payable, the  
22 authority may bring an action to recover the penalty in the superior  
23 court of the county of the authority's main office or of any county  
24 in which the violator does business. In these actions, the procedures  
25 and rules of evidence shall be the same as in an ordinary civil  
26 action.

27 (5) All penalties recovered shall be paid into the state treasury  
28 and credited to the general fund except those penalties imposed  
29 pursuant to RCW 18.104.155, which shall be credited to the  
30 reclamation account as provided in RCW 18.104.155(7), RCW  
31 70A.15.3160, the disposition of which shall be governed by that  
32 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
33 to the recycling enhancement account created in RCW 70A.245.100, RCW  
34 70A.300.090, which shall be credited to the model toxics control  
35 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
36 shall be credited to the climate investment account created in RCW  
37 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
38 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
39 shall be credited to the underground storage tank account created by  
40 RCW 70A.355.090.

1        NEW SECTION.    **Sec. 10.**    Sections 1 through 5 of this act  
2 constitute a new chapter in Title 70A RCW.

3        NEW SECTION.    **Sec. 11.**    If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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

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