

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1551

68th Legislature
2024 Regular Session

Passed by the House March 5, 2024
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate March 1, 2024
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1551** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1551

AS AMENDED BY THE

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2024 Regular Session

By House Appropriations (originally sponsored by Representatives Pollet, Doglio, Fitzgibbon, Berry, Gregerson, Fosse, and Bateman)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to reducing lead in cookware; reenacting and
2 amending RCW 43.21B.110 and 43.21B.300; adding a new chapter to Title
3 70A RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Component" includes separate or distinct parts of the
9 cookware including, but not limited to, accessories such as lids,
10 knobs, handles and handle assemblies, rivets, fasteners, valves, and
11 vent pipes.

12 (2) "Cookware" means any metal pots, pans, bakeware, rice
13 cookers, pressure cookers, and other containers and devices intended
14 for the preparation or storage of food.

15 (3) "Department" means the Washington state department of
16 ecology.

17 (4) "Manufacturer" means any person, firm, association,
18 partnership, corporation, governmental entity, organization, or joint
19 venture that produces a product or is an importer or domestic
20 distributor of a product sold or offered for sale in or into the
21 state.

1 (5) "Vulnerable populations" has the same meaning as defined in
2 RCW 70A.02.010.

3 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2026, no
4 manufacturer may manufacture, sell, offer for sale, distribute for
5 sale, or distribute for use in this state cookware or a cookware
6 component containing lead or lead compounds at a level of more than
7 five parts per million.

8 (2)(a) Beginning January 1, 2026, no retailer or wholesaler may
9 knowingly sell or knowingly offer for sale for use in this state
10 cookware or a cookware component containing lead or lead compounds at
11 a level of more than five parts per million.

12 (b) Retailers or wholesalers who unknowingly sell products that
13 are restricted from sale under this chapter are not liable under this
14 chapter.

15 (c) The sale or purchase of any previously owned cookware or
16 cookware components containing lead made in casual or isolated sales
17 as defined in RCW 82.04.040, or by a nonprofit organization, is
18 exempt from this chapter.

19 (3) After December 2034, the department, in consultation with the
20 department of health, may lower the five part per million limit
21 established in subsection (1) of this section by rule if it
22 determines that the lower limit is:

23 (a) Feasible for cookware and cookware component manufacturers to
24 achieve; and

25 (b) Necessary to protect human health, including the health of
26 vulnerable populations.

27 NEW SECTION. **Sec. 3.** (1) The department may adopt rules as
28 necessary for the purpose of implementing, administering, and
29 enforcing this chapter.

30 (2) A person violating a requirement of this chapter, a rule
31 adopted under this chapter, or an order issued under this chapter, is
32 subject to a civil penalty not to exceed \$5,000 for each violation in
33 the case of a first offense. Repeat violations are subject to a civil
34 penalty not to exceed \$10,000 for each repeat offense.

35 (3) Any penalty provided for in this section, and any order
36 issued by the department under this chapter, may be appealed to the
37 pollution control hearings board.

1 (4) All penalties collected under this chapter shall be deposited
2 in the model toxics control operating account created in RCW
3 70A.305.180.

4 **Sec. 4.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20, 2023
5 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to read
6 as follows:

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

14 (a) Civil penalties imposed pursuant to RCW 18.104.155,
15 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
16 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
17 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
18 70A.555.110, 70A.560.020, section 3 of this act, 76.09.170,
19 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
20 90.56.310, 90.56.330, and 90.64.102.

21 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
22 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
23 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, section 3 of this
24 act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and
25 90.56.330.

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

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

36 (e) Decisions of local health departments regarding the issuance
37 and enforcement of permits to use or dispose of biosolids under RCW
38 70A.226.090.

1 (f) Decisions of the department regarding waste-derived
2 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
3 decisions of the department regarding waste-derived soil amendments
4 under RCW 70A.205.145.

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

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

14 (i) Decisions of the department of natural resources, the
15 department of fish and wildlife, and the department that are
16 reviewable under chapter 76.09 RCW, and the department of natural
17 resources' appeals of county, city, or town objections under RCW
18 76.09.050(7).

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

21 (k) Decisions of the department of fish and wildlife to issue,
22 deny, condition, or modify a hydraulic project approval permit under
23 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
24 comply, to issue a civil penalty, or to issue a notice of intent to
25 disapprove applications.

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

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

32 (n) Decisions of the department of ecology that are appealable
33 under RCW 70A.245.020 to set recycled minimum postconsumer content
34 for covered products or to temporarily exclude types of covered
35 products in plastic containers from minimum postconsumer recycled
36 content requirements.

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

38 (2) The following hearings shall not be conducted by the hearings
39 board:

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

3 (b) Hearings conducted by the department pursuant to RCW
4 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
5 70A.15.3110, and 90.44.180.

6 (c) Appeals of decisions by the department under RCW 90.03.110
7 and 90.44.220.

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

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

13 **Sec. 5.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21, and
14 2023 c 135 s 7 are each reenacted and amended to read as follows:

15 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
16 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
17 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
18 70A.455.090, 70A.555.110, 70A.560.020, section 3 of this act,
19 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
20 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
21 writing, either by certified mail with return receipt requested or by
22 personal service, to the person incurring the penalty from the
23 department or the local air authority, describing the violation with
24 reasonable particularity. For penalties issued by local air
25 authorities, within 30 days after the notice is received, the person
26 incurring the penalty may apply in writing to the authority for the
27 remission or mitigation of the penalty. Upon receipt of the
28 application, the authority may remit or mitigate the penalty upon
29 whatever terms the authority in its discretion deems proper. The
30 authority may ascertain the facts regarding all such applications in
31 such reasonable manner and under such rules as it may deem proper and
32 shall remit or mitigate the penalty only upon a demonstration of
33 extraordinary circumstances such as the presence of information or
34 factors not considered in setting the original penalty.

35 (2) Any penalty imposed under this section may be appealed to the
36 pollution control hearings board in accordance with this chapter if
37 the appeal is filed with the hearings board and served on the
38 department or authority 30 days after the date of receipt by the
39 person penalized of the notice imposing the penalty or 30 days after

1 the date of receipt of the notice of disposition by a local air
2 authority of the application for relief from penalty.

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

4 (a) 30 days after receipt of the notice imposing the penalty;

5 (b) 30 days after receipt of the notice of disposition by a local
6 air authority on application for relief from penalty, if such an
7 application is made; or

8 (c) 30 days after receipt of the notice of decision of the
9 hearings board if the penalty is appealed.

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

22 (5) All penalties recovered shall be paid into the state treasury
23 and credited to the general fund except those penalties imposed
24 pursuant to RCW 18.104.155, which shall be credited to the
25 reclamation account as provided in RCW 18.104.155(7), RCW
26 70A.15.3160, the disposition of which shall be governed by that
27 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
28 to the recycling enhancement account created in RCW 70A.245.100, RCW
29 70A.300.090, 70A.555.110, ~~((and))~~ 70A.560.020, and section 3 of this
30 act, which shall be credited to the model toxics control operating
31 account created in RCW 70A.305.180, RCW 70A.65.200, which shall be
32 credited to the climate investment account created in RCW 70A.65.250,
33 RCW 90.56.330, which shall be credited to the coastal protection fund
34 created by RCW 90.48.390, and RCW 70A.355.070, which shall be
35 credited to the underground storage tank account created by RCW
36 70A.355.090.

37 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act
38 constitute a new chapter in Title 70A RCW.

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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