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**SENATE BILL 5605**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Robinson, Dhingra, Hunt, Lovelett, Lovick, and Stanford

Read first time 01/27/23. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to reducing lead in cookware; amending RCW  
2 43.21B.110 and 43.21B.300; adding a new chapter to Title 70A RCW; and  
3 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) "Cookware" means any metal pots, pans, bakeware, rice  
9 cookers, pressure cookers, and other containers and devices intended  
10 for the preparation or storage of food.

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

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, 2025, no  
4 manufacturer, wholesaler, or retailer may manufacture, sell, offer  
5 for sale, distribute for sale, or distribute for use in this state  
6 cookware or cookware component containing lead or lead compounds at a  
7 level of more than five parts per million.

8 (2) The department, in consultation with the department of  
9 health, may lower the five part per million limit established in  
10 subsection (1) of this section by rule if it determines that the  
11 lower limit is:

12 (a) Feasible for cookware and cookware component manufacturers to  
13 achieve; and

14 (b) Necessary to protect human health, including the health of  
15 vulnerable populations.

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

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

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

27 (4) All penalties collected under this chapter shall be deposited  
28 in the model toxics control operating account created in RCW  
29 70A.305.180.

30 **Sec. 4.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
31 read as follows:

32 (1) The hearings board shall only have jurisdiction to hear and  
33 decide appeals from the following decisions of the department, the  
34 director, local conservation districts, the air pollution control  
35 boards or authorities as established pursuant to chapter 70A.15 RCW,  
36 local health departments, the department of natural resources, the

1 department of fish and wildlife, the parks and recreation commission,  
2 and authorized public entities described in chapter 79.100 RCW:

3 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
4 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
5 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
6 70A.65.200, 70A.455.090, section 3 of this act, 76.09.170, 77.55.440,  
7 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
8 90.56.330, and 90.64.102.

9 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
10 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
11 70A.245.020, 70A.65.200, section 3 of this act, 86.16.020, 88.46.070,  
12 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

13 (c) Except as provided in RCW 90.03.210(2), the issuance,  
14 modification, or termination of any permit, certificate, or license  
15 by the department or any air authority in the exercise of its  
16 jurisdiction, including the issuance or termination of a waste  
17 disposal permit, the denial of an application for a waste disposal  
18 permit, the modification of the conditions or the terms of a waste  
19 disposal permit, or a decision to approve or deny an application for  
20 a solid waste permit exemption under RCW 70A.205.260.

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

23 (e) Decisions of local health departments regarding the issuance  
24 and enforcement of permits to use or dispose of biosolids under RCW  
25 70A.226.090.

26 (f) Decisions of the department regarding waste-derived  
27 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
28 decisions of the department regarding waste-derived soil amendments  
29 under RCW 70A.205.145.

30 (g) Decisions of local conservation districts related to the  
31 denial of approval or denial of certification of a dairy nutrient  
32 management plan; conditions contained in a plan; application of any  
33 dairy nutrient management practices, standards, methods, and  
34 technologies to a particular dairy farm; and failure to adhere to the  
35 plan review and approval timelines in RCW 90.64.026.

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

39 (i) Decisions of the department of natural resources, the  
40 department of fish and wildlife, and the department that are

1 reviewable under chapter 76.09 RCW, and the department of natural  
2 resources' appeals of county, city, or town objections under RCW  
3 76.09.050(7).

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

6 (k) Decisions of the department of fish and wildlife to issue,  
7 deny, condition, or modify a hydraulic project approval permit under  
8 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
9 comply, to issue a civil penalty, or to issue a notice of intent to  
10 disapprove applications.

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

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

17 (n) Decisions of the department of ecology that are appealable  
18 under RCW 70A.245.020 to set recycled minimum postconsumer content  
19 for covered products or to temporarily exclude types of covered  
20 products in plastic containers from minimum postconsumer recycled  
21 content requirements.

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

23 (2) The following hearings shall not be conducted by the hearings  
24 board:

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

27 (b) Hearings conducted by the department pursuant to RCW  
28 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
29 70A.15.3110, and 90.44.180.

30 (c) Appeals of decisions by the department under RCW 90.03.110  
31 and 90.44.220.

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

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

37 **Sec. 5.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
38 read as follows:

1 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
2 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
3 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 3 of this  
4 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
5 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
6 a notice in writing, either by certified mail with return receipt  
7 requested or by personal service, to the person incurring the penalty  
8 from the department or the local air authority, describing the  
9 violation with reasonable particularity. For penalties issued by  
10 local air authorities, within 30 days after the notice is received,  
11 the person incurring the penalty may apply in writing to the  
12 authority for the remission or mitigation of the penalty. Upon  
13 receipt of the application, the authority may remit or mitigate the  
14 penalty upon whatever terms the authority in its discretion deems  
15 proper. The authority may ascertain the facts regarding all such  
16 applications in such reasonable manner and under such rules as it may  
17 deem proper and shall remit or mitigate the penalty only upon a  
18 demonstration of extraordinary circumstances such as the presence of  
19 information or factors not considered in setting the original  
20 penalty.

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

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

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

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

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

35 (4) If the amount of any penalty is not paid to the department  
36 within 30 days after it becomes due and payable, the attorney  
37 general, upon request of the department, shall bring an action in the  
38 name of the state of Washington in the superior court of Thurston  
39 county, or of any county in which the violator does business, to  
40 recover the penalty. If the amount of the penalty is not paid to the

1 authority within 30 days after it becomes due and payable, the  
2 authority may bring an action to recover the penalty in the superior  
3 court of the county of the authority's main office or of any county  
4 in which the violator does business. In these actions, the procedures  
5 and rules of evidence shall be the same as in an ordinary civil  
6 action.

7 (5) All penalties recovered shall be paid into the state treasury  
8 and credited to the general fund except those penalties imposed  
9 pursuant to RCW 18.104.155, which shall be credited to the  
10 reclamation account as provided in RCW 18.104.155(7), RCW  
11 70A.15.3160, the disposition of which shall be governed by that  
12 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
13 to the recycling enhancement account created in RCW 70A.245.100, RCW  
14 70A.300.090 and section 3 of this act, which shall be credited to the  
15 model toxics control operating account created in RCW 70A.305.180,  
16 RCW 70A.65.200, which shall be credited to the climate investment  
17 account created in RCW 70A.65.250, RCW 90.56.330, which shall be  
18 credited to the coastal protection fund created by RCW 90.48.390, and  
19 RCW 70A.355.070, which shall be credited to the underground storage  
20 tank account created by RCW 70A.355.090.

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

23 NEW SECTION. **Sec. 7.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

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