

# HOUSE BILL REPORT

## HB 1039

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**As Reported by House Committee On:**  
Environmental Health, Select

**Title:** An act relating to allowing the department of ecology to issue written opinions for a portion of a facility under the model toxics control act.

**Brief Description:** Allowing the department of ecology to issue opinions for a portion of a facility under the model toxics control act.

**Sponsors:** Representatives B. Sullivan, Kenney and Chase.

**Brief History:**

**Committee Activity:**

Select Committee on Environmental Health: 1/18/07, 1/23/07 [DPS].

**Brief Summary of Substitute Bill**

- Authorizes the Department of Ecology to issue written opinions under the Model Toxics Control Act for a portion of the real property located within a facility.
- Requires an opinion on a portion of a facility to also include an opinion on the status of the whole facility.

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### HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Chase, Hailey, Hunt, Morrell and Wood.

**Staff:** Amy McCormick (786-7290).

**Background:**

The Department of Ecology (Department) administers the Model Toxics Control Act (MTCA). As part of its administration, the Department is authorized to advise and assist owners of contaminated land. Advice and assistance regarding independent remedial actions

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may be provided in a written opinion by the Department. The written opinion may address whether independent remedial action or proposals for those actions meet requirements of MTCA or whether further independent remedial action is required. This written opinion may result in what is informally referred to by the Department as a "No Further Action" (NFA) letter or opinion.

Written opinions or advice given by the Department apply to facilities. Facilities generally consist of any site where contamination or a hazardous substance is located. A facility may consist of one or more parcels of land with common owners or different owners. The Department does not issue NFA opinions for portions of facilities if the entire facility would not be issued a NFA opinion.

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**Summary of Substitute Bill:**

The definition section is removed to be consistent with changes in terminology. The substitute bill authorizes the Department of Ecology to issue written opinions under the Model Toxics Control Act for a portion of the real property located within a facility. The substitute bill requires an opinion on a portion of a facility to also include an opinion on the status of the whole facility.

**Substitute Bill Compared to Original Bill:**

The substitute authorizes, rather than directs, the Department of Ecology to issue written opinions under the Model Toxics Control Act for a portion of the real property located within a facility. The substitute adds a requirement that an opinion on a portion of a facility also include the status of the whole facility.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2007.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support with amendment) Owners of contaminated land who participate in cleanup efforts cannot currently receive an NFA letter, since DOE does not issue those letters for a portion of a facility. If owners obtain an NFA letter, the community can benefit. Real estate transactions and redevelopment efforts can be the driving factors in obtaining an NFA letter, especially for land that has a lower-risk of environmental harm. Financial lenders will not usually lend money without an NFA letter for previously contaminated land. The demands of the real estate market must be balanced with the demands of land with higher risks of environmental harm. Substitute language creates a better statement of intention about issuing NFA letters.

(Opposed) None.

**Persons Testifying:** (In support with amendment) Rep. Brian Sullivan, prime sponsor; Mark Wolken, property owner; Jim Pendowski, Toxics Cleanup Program, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.