

HOUSE BILL REPORT

ESHB 2818

As Passed House:

February 19, 2008

Title: An act relating to the duties of the office of waste reduction and sustainable production within the department of ecology.

Brief Description: Concerning the duties of the department of ecology's office of waste reduction and sustainable production.

Sponsors: By House Committee on Select Committee on Environmental Health (originally sponsored by Representatives Campbell and Hudgins).

Brief History:

Committee Activity:

Select Committee on Environmental Health: 1/24/08, 1/30/08 [DPS].

Floor Activity:

Passed House: 2/19/08, 95-0.

Brief Summary of Engrossed Substitute Bill

- Increases the responsibilities of the Office of Waste Reduction within the Department of Ecology to include considerations of sustainable production and toxic chemicals use reduction.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Sump, Ranking Minority Member; Chase, Hunt, Morrell, Newhouse and Wood.

Staff: Brad Avy (786-7289).

Background:

Toxic chemicals are found in the state's environment, people, and living organisms. There are adverse effects on human health and the environment from toxic chemicals (including persistent, bioaccumulative, and toxic chemicals; heavy metals; and chemicals that are

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endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic, or toxic to reproduction). Children are at higher risk of harm from exposure to toxic chemicals than adults.

Summary of Engrossed Substitute Bill:

Pollution prevention plan requirements currently in law must be evaluated for their ability to help meet a newly established 50 percent use reduction goal for toxic chemicals by 2020 and fund programs to reduce the use of toxic chemicals in the state. The Department of Ecology (DOE) must convene a balanced stakeholder group and report its findings and recommendations by December 31, 2008.

"Toxic chemicals" are defined to mean chemicals with an adverse effect on human health and the environment. They include, but are not limited to, those that are persistent, bioaccumulative, toxic, endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic; toxic to reproduction; or have degradation products that exhibit any of these characteristics. "Toxic chemicals" does not include chemicals used in agricultural production.

The Office of Waste Reduction within the DOE is renamed the Office of Waste Reduction and Sustainable Production (OWRSP). Responsibilities are increased to include promotion of toxic chemicals use reduction, sustainable production, and the production of safer consumer products.

The DOE is required to promote the following purposes through research, development, technology demonstration, technology transfer, education, outreach, recognition, and training programs:

- innovative and cost-effective methods for reducing or eliminating the use of toxic substances in manufacturing and other processes (through research and development of environmental technologies that result in sustainable production and toxic chemical use reduction over the course of product life cycles);
- pollution prevention as a means for preventing the risks associated with the use and production of hazardous substances, including risks to human health and the environment;
- pollution prevention as a means for reducing energy and resource consumption, and reducing or eliminating the generation of hazardous substances, pollution, and waste;
- implementation of affordable and cost-effective methods of achieving pollution prevention as a means of:
 - sustaining and safeguarding the competitive advantage of large and small businesses in the state;
 - advancing innovation in the reduction of energy and resource consumption; and
 - reduction or elimination of hazardous substances, pollution, and waste; and
- voluntary implementation of pollution prevention as a means for meeting the requirements of state or federal environmental laws or regulations.

The OWSRP is required to work with federal, state, and local agencies, and private organizations administering programs related to pollution prevention, energy consumption, resource consumption, the use and generation of hazardous substances, or the generation of waste or pollution.

The existing Waste Reduction and Hazardous Substance Use Reduction and Consultation program is required to provide engineering technical assistance services to businesses and manufacturers in the state seeking to use safer chemical alternatives, reduce waste, increase efficiency, and redesign industrial processes. The Director of the DOE (Director) may award, on a competitive basis, within amounts appropriated, contracts to public or private institutions able to offer these services.

The OWRSP must administer a Waste Reduction and Safer Chemical Alternatives Research and Development program. The Director may contract with any public or private organization for the purpose of developing methods and technologies that achieve toxic chemical use reduction.

The OWRSP is required to establish and maintain a database of chemicals used in the state to help meet the 50 percent use reduction goal for toxic chemicals by 2020.

The OWRSP must consult with the Department of Health (DOH) regarding the health effects of toxic chemicals and safer chemical alternatives.

The OWRSP must develop a toxic chemicals registry of critical materials and establish:

- reduction strategies for the highest priority chemicals;
- create reduction programs for those chemicals; and
- maintain a database of chemicals used in the state.

The Waste Reduction and Safer Chemical Alternatives Research and Development program may establish or participate in a multi-state chemicals clearinghouse to collect and share information and resources related to safer chemical alternatives. Responsibilities for the clearinghouse include the following:

- share information on safer chemicals initiatives at the state and local level;
- collaborate on interstate efforts;
- provide fact sheets and guidance documents on chemical use, hazards, and substitutes;
- provide a forum for receiving and disseminating U. S. Environmental Protection Agency or other suitable chemical use and hazard data; and
- the DOE may, on a biennial basis, convene a one-day conference that brings together representatives from large and small businesses, government agencies, private agencies, and the general public to discuss progress and exchange ideas consistent with toxic chemicals use reduction.

The OWRSP is required to prepare and submit a biennial progress report to the Legislature.

The DOE may adopt rules to fully implement the bill.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) Modernization of chemical policy is needed. The existing data gap is critical to address. There is a need to move quickly to remove chemicals that are harmful to people and wildlife. State agencies need the information to carry out their mission to protect human health and the environment. Retailers need to know and consumers need to know alternatives do exist. Technical assistance to businesses, adequate pollution prevention, research and development, and a collaborative multidisciplinary institute are all important. Washington deserves business innovation and sustainability.

(Neutral) The DOE has been successful in meeting the challenge of the hazardous waste reduction goal over the last 20 years. A better job is needed on the chemical use side, especially with growing concerns about toxic chemicals. Exposure risk begins when we choose what to use in making things. This bill creates a place, a hub, where business and government can find ways to reduce use of toxic chemicals. The bill provides the opportunity to get out in front, instead of the Cleanup Action Plan approach, which is reactive. There are a number of businesses trying to explore green chemistry. This bill replaces the old 50 percent reduction goal for hazardous waste with a new goal of toxic use reduction. The challenge is in being thoughtful about how the information is asked for and how it is structured. The DOH should be included in assessing the toxicity of chemicals.

(With concerns) There are concerns about the broad nature of the definition of toxic chemicals. The reporting requirement creates an overlap with chemicals that implies they are not safe when they are. The existing law is not set up for expansion. The toxic substance term is used without definition. The bill duplicates a number of areas of state and federal law. It is already a pretty well regulated industry. It is not clear what the bill applies to regarding the definition. It is difficult to determine the scope of the bill and what small business owners will be required to do. When will they have to do what, and what will they have to do? The consultation program is essential. Most owners are buying from others and don't know what product is toxic and what is not. They are not in a position to analyze. It is not clear how much it will cost.

(Opposed) The American Chemistry Council agrees with the underlying principle of the bill but feels the definition of toxic chemicals is too broad. Toxicity is related to quantity. Too high a dose of anything can be toxic. Most chemicals are already dealt with on a national basis under the Environmental Protection Agency for high production volume chemicals.

Persons Testifying: (In support) Representative Campbell, prime sponsor; and Margaret Shield, Toxic-Free Legacy Coalition.

(Neutral) Darin Rice, Department of Ecology.

(With concerns) Bill Stauffacher, Northwest Pulp and Paper Association, American Forest and Paper Association, Consumer Speciality Products Association; and Gary Smith, Independent Business Association.

(Opposed) Mark Greenberg, American Chemistry Council.

Persons Signed In To Testify But Not Testifying: None.