

# HOUSE BILL REPORT

## ESHB 1721

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**As Passed House:**  
February 28, 2011

**Title:** An act relating to preventing storm water pollution from coal tar sealants.

**Brief Description:** Preventing storm water pollution from coal tar sealants.

**Sponsors:** House Committee on Environment (originally sponsored by Representatives Frockt, Kenney, Roberts, Fitzgibbon and Stanford).

**Brief History:**

**Committee Activity:**

Environment: 2/8/11, 2/17/11 [DPS].

**Floor Activity:**

Passed House: 2/28/11, 67-30.

**Brief Summary of Engrossed Substitute Bill**

- Prohibits the sale of coal tar pavement products after January 1, 2012.
- Prohibits the application of coal tar pavement products after July 1, 2012.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Fitzgibbon, Jacks, Jinkins, Morris, Moscoso, Takko and Tharinger.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Crouse, Nealey, Pearson and Taylor.

**Staff:** Courtney Barnes (786-7194).

**Background:**

Coal Tar Sealants.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Coal tar sealants are used to protect and maintain asphalt pavement for driveways and parking lots. Asphalt pavement develops cracks over time, and sealants are used to help protect the pavement surface. Coal tar sealants contain polycyclic aromatic hydrocarbons (PAHs). The PAHs are a group of chemicals that are formed during the incomplete burning of coal, oil, gas, wood, or other organic substances.

**Summary of Engrossed Substitute Bill:**

After January 1, 2012, no person may sell at wholesale or retail a coal tar pavement product that is labeled as containing coal tar. "Coal tar" and "coal tar pavement product" are defined.

After July 1, 2012, a person may not apply a coal tar pavement product on a driveway or parking area.

The Department of Ecology (DOE) may issue a notice of corrective action to a person who sells or applies a coal tar pavement product in violation of the bill.

A city or county may adopt an ordinance to provide enforcement with the requirements of the bill. A city or county adopting an ordinance for enforcement has jurisdiction concurrent with the DOE.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The bill protects public health and the environment. Coal tar sealants are linked with cancer. Coal tar sealants also harm aquatic life as a result of stormwater runoff. Safer alternatives are readily available. The bill will not require major costs in order to switch to an asphalt-based sealant. A number of PAHs are toxic and persistent. The bill will help prevent additional environmental contamination. The bill will also prevent local governments from having to spend money to clean up stormwater contamination caused by PAHs.

(Opposed) Forensic chemistry has attempted to study the effect of coal tar sealants using a wide range of data. The science does not support the assertion that coal tar sealants are a major source of pollution. Coal tar sealants should not be banned.

**Persons Testifying:** (In support) Representative Frockt, prime sponsor; Carol Kraege, Department of Ecology; Kristin Swenddal, Department of Natural Resources; Mo McBroom, Washington Environmental Council; and Heather Trim, People for Puget Sound.

(Opposed) Kirk O'Reilly, Exponent; and Anne LeHuray, Pavement Coatings Technology Council.

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