

SENATE BILL REPORT

SB 5798

As of February 9, 1995

Title: An act relating to the authority of the state for cleanup standards under the model toxics control act.

Brief Description: Changing the scope of cleanup standards for remedial actions under the model toxics control act.

Sponsors: Senators Deccio and Loveland.

Brief History:

Committee Activity: Ecology & Parks: 2/16/95.

SENATE COMMITTEE ON ECOLOGY & PARKS

Staff: Gary Wilburn (786-7453)

Background: One of the most complex and controversial subjects in the field of toxic waste site cleanup is the degree of cleanup required, commonly referred to as the "how clean is clean?" issue. Initiative 97, adopted by the people in 1987, created Washington's Hazardous Waste Cleanup Program. In major respects, it was modelled after the federal "Superfund" law that was substantially amended in 1986.

The state law, commonly known as the "Model Toxics Control Act" (MTCA), does not establish specific cleanup standards. Instead, it directs the Department of Ecology to establish and periodically update cleanup standards, which must be "at least as stringent" as the cleanup standards under the federal Superfund law and all other "applicable" federal and state laws, including health-based standards. The federal Superfund law does not establish specific cleanup standards, but rather requires a degree of cleanup that at a minimum "assures protection of human health and the environment." The federal law also requires compliance with "legally applicable" standards and those "relevant or appropriate under the circumstances," including state standards that are more stringent than federal standards.

The department has adopted rules establishing cleanup standards and methods to establish the standards for specific sites. In general, the rules provide three basic methods for determining the level of cleanup at a site for each pollutant: (1) Method A, providing tables with specific numeric limits for specific pollutants; (2) Method B, providing a standard method for determining cleanup levels for ground water, surface water, soil, and air; and (3) Method C, providing a "conditional" method involving site-specific risk assessment where Methods A and B may be impossible to achieve or may cause greater environmental harm.

Summary of Bill: The existing language directing the department's cleanup standards to be at least as stringent as the federal cleanup law and all applicable state and federal laws is deleted. The department's minimum cleanup standards are to comply with six requirements:

(1) be protective of health, safety, welfare and the environment; (2) be based upon generally accepted and peer reviewed scientific information and reasonable assumptions as to exposure to contaminants; (3) be based upon site-specific risks; (4) provide for site-specific risk reduction proportionate to total cleanup cost; (5) require that cleanups be selected based upon technical practicability, and give equal consideration to engineering controls, institutional controls, and treatment; and (6) cleanups be based upon current and future land uses.

Appropriation: None.

Fiscal Note: Requested on February 7, 1995.

Effective Date: Ninety days after adjournment of session in which bill is passed.