
SUBSTITUTE SENATE BILL 6129

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Fraser and Winsley; by request of Department of Ecology)

Read first time 1/23/98.

1 AN ACT Relating to allowing continued use of pollution control tax
2 credits after facilities have been modified to maintain effective
3 pollution control; amending RCW 82.34.100; and repealing RCW 82.34.080.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.34.100 and 1988 c 127 s 37 are each amended to read
6 as follows:

7 (1) The department of ecology, after notice to the department and
8 the applicant and after affording the applicant an opportunity for a
9 hearing, shall, on its own initiative or on complaint of the local or
10 regional air pollution control agency in which an air pollution control
11 facility is located, or is expected to be located, revise the prior
12 findings of the appropriate control agency whenever any of the
13 following appears:

14 ~~((1))~~ (a) The certificate or supplement thereto was obtained by
15 fraud or misrepresentation, or the holder of the certificate has failed
16 substantially without good cause to proceed with the construction,
17 reconstruction, installation or acquisition of a facility or without
18 good cause has failed substantially to operate the facility for the
19 purpose specified by the appropriate control agency in which case the

1 department shall modify or revoke the certificate. If the certificate
2 and/or supplement are revoked, all applicable taxes from which an
3 exemption has been secured under this chapter or against which the
4 credit provided for by this chapter has been claimed shall be
5 immediately due and payable with the maximum interest and penalties
6 prescribed by applicable law. No statute of limitations shall operate
7 in the event of fraud or misrepresentation.

8 ~~((+2+))~~ (b) The facility covered by the certificate or supplement
9 thereto is no longer operated primarily for the purpose of the control
10 or reduction of water pollution or the control, capture, and removal of
11 pollutants from the air, as the case may be, or is no longer suitable
12 or reasonably adequate to meet the intent and purposes of chapter 70.94
13 RCW or chapter 90.48 RCW, in which case the certificate shall be
14 modified or revoked.

15 (2) A certificate, or supplement thereto, issued pursuant to RCW
16 82.34.030 may not be revoked if:

17 (a) The facility is modified, but is still operated primarily for
18 the purpose of the control or reduction of water pollution or the
19 control, capture, and removal of pollutants from the air and is
20 reasonably adequate to meet the intent and purposes of chapter 70.94 or
21 90.48 RCW;

22 (b) The facility is replaced by a new or different facility that is
23 still operated primarily for the purpose of the control or reduction of
24 water pollution or the control, capture, and removal of pollutants from
25 the air and is reasonably adequate to meet the intent and purposes of
26 chapter 70.94 or 90.48 RCW;

27 (c) The facility is modified or removed as a result of an
28 alteration of the production process and the alteration results in
29 reasonably adequate compliance with the intent and purposes of chapter
30 70.94 or 90.48 RCW;

31 (d) The industrial, manufacturing, waste disposal, utility, or
32 other commercial establishment in which the facility was installed
33 ceases operations and the cessation of operation results in reasonably
34 adequate compliance with the intent and purposes of chapter 70.94 or
35 90.48 RCW;

36 (e) Part of an industrial, manufacturing, waste disposal, utility,
37 or other commercial establishment in which the facility was installed
38 ceases operations and the cessation of operation results in reasonably

1 adequate compliance with the intent and purposes of chapter 70.94 or
2 90.48 RCW; or

3 (f) The industrial, manufacturing, waste disposal, utility, or
4 other commercial establishment in which the facility was installed is
5 altered and the alteration results in reasonably adequate compliance
6 with the intent and purposes of chapter 70.94 or 90.48 RCW.

7 (3) Upon the date of mailing by certified mail to the certificate
8 holder of notice of the action of the department modifying or revoking
9 a certificate or supplement, the certificate or supplement shall cease
10 to be in force or shall remain in force only as modified.

11 NEW SECTION. Sec. 2. RCW 82.34.080 and 1981 2nd ex.s. c 9 s 4 &
12 1967 ex.s. c 139 s 8 are each repealed.

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