
SENATE BILL 6807

State of Washington 57th Legislature

2002 Regular Session

By Senators Morton, T. Sheldon, Hewitt, Rasmussen and Hale

Read first time 02/07/2002. Referred to Committee on Environment,
Energy & Water.

1 AN ACT Relating to persistent, bioaccumulative, toxics reduction
2 and education; adding a new chapter to Title 70 RCW; prescribing
3 penalties; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) There is a need to address the potential risks posed by mercury
7 and other persistent, bioaccumulative, toxic substances;

8 (2) Persistent, bioaccumulative, toxic substances are durable and
9 break down very slowly when released into the environment;

10 (3) Animals and people accumulate persistent, bioaccumulative,
11 toxic substances in their bodies, primarily from the food they eat. As
12 these chemicals move up the food chain, they increase in concentration;

13 (4) The intent of this chapter is to reduce and, where feasible,
14 eliminate the risks to human health and the environment within the
15 state posed by mercury and persistent, bioaccumulative, toxic
16 substances through the identification, prioritization, and management
17 of such substances;

1 (5) It is necessary to establish precise, science-based criteria,
2 and a consistent procedure for identifying and prioritizing mercury and
3 persistent, bioaccumulative, toxic substances;

4 (6) It is necessary to build on existing state and federal programs
5 that address mercury and persistent, bioaccumulative, toxic substances,
6 to use a full range of risk management options, both regulatory and
7 nonregulatory, and to reduce, and where feasible, eliminate potential
8 risks posed by mercury and persistent, bioaccumulative, toxic
9 substances;

10 (7) It is necessary to develop a cross-media approach for managing
11 persistent, bioaccumulative, toxic substances because those substances
12 move readily between air, water, and land; and

13 (8) To ensure progress towards reducing and, where feasible,
14 eliminating risks posed by persistent, bioaccumulative, toxic
15 substances it is necessary to regularly measure the results of risk
16 management actions and, where necessary, improve risk management
17 actions.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply
19 throughout this chapter unless the context clearly requires otherwise.

20 (1) "Bioaccumulation" means the buildup of a chemical in biological
21 organisms compared with their surrounding physical environment. A
22 substance bioaccumulates if: (a) Evidence that the bioconcentration
23 factor or bioaccumulation factor in aquatic species for the chemical is
24 greater than five thousand or, in the absence of such data, that the
25 log kow is greater than five; (b) evidence that a chemical presents
26 other reasons for concern, such as high bioaccumulation in other
27 species, high toxicity, or ecotoxicity; or (c) monitoring data in biota
28 indicating that the bioaccumulation potential of the chemical is
29 sufficient to justify its consideration in the scope of this chapter.

30 (2) "Department" means the department of ecology.

31 (3) "Director" means the director of the department of ecology.

32 (4) "Persistence" means the ability of a substance to remain in the
33 environment and is defined as: (a) Evidence that the half-life of the
34 chemical in water is greater than two months, or that the chemical's
35 half-life in soil is greater than six months; (b) that the chemical's
36 half-life in sediment is greater than six months; (c) evidence that the
37 chemical is otherwise sufficiently persistent to justify its
38 consideration within the scope of this chapter.

1 (5) "Persistent, bioaccumulative, toxic substance" means a
2 substance that concentrates primarily in water, sediment, or soil, and
3 is not removed at a rate adequate to prevent its bioaccumulation in
4 aquatic or terrestrial species, and is, therefore, present in the
5 environment in toxic concentrations. A persistent, bioaccumulative,
6 toxic substance satisfies all of these three criteria: (a)
7 Bioaccumulation, (b) persistence, and (c) toxicity.

8 (6) "Persistent, bioaccumulative, toxic substance working list"
9 means the list of substances that exhibit the characteristics of
10 persistence, bioaccumulation, and toxicity, and pose an unreasonable
11 risk to human health and the environment within the state.

12 (7) "Risk management" means activities taken to reduce or eliminate
13 risks to human health or the environment. Risk management includes
14 regulation as well as nonregulatory actions, such as voluntary programs
15 or educational activities that reduce exposures.

16 (8) "Toxicity" means the inherent capacity of a substance to
17 produce injury. A substance is toxic if it causes adverse effects to
18 human health or to the environment at levels typically encountered in
19 the environment.

20 NEW SECTION. **Sec. 3.** IDENTIFICATION AND PRIORITIZATION OF
21 PERSISTENT, BIOACCUMULATIVE, TOXIC SUBSTANCES. (1) The department must
22 adopt scientific criteria for determining bioaccumulation, persistence,
23 and toxicity.

24 (2) The department must, using the persistent, bioaccumulative,
25 toxic substance selection criteria developed in subsection (1) of this
26 section, identify substances that meet the criteria for persistence,
27 bioaccumulation, and toxicity, and that may pose an unreasonable risk
28 to human health or the environment within the state. In determining
29 whether a substance poses an unreasonable risk to human health or the
30 environment, the department must apply scientifically based risk
31 assessment techniques.

32 (3) The department must apply its persistent, bioaccumulative,
33 toxic substance selection criteria and use its risk determinations
34 described in subsection (2) of this section to establish a persistent,
35 bioaccumulative, toxic substance working list of candidate persistent,
36 bioaccumulative, toxic substances that the department will consider for
37 risk management actions. The department must prioritize persistent,
38 bioaccumulative, toxic substances on its persistent, bioaccumulative,

1 toxic substance working list according to the potential risks to human
2 health and the environment in the state posed by such substances,
3 giving highest priority to persistent, bioaccumulative, toxic
4 substances that pose the greatest potential risk. The working list
5 does not represent any type or form of regulatory or statutory
6 requirement, nor does it represent a ban on any chemicals or chemical
7 groups.

8 (4) The department must establish by rule, a process for adding and
9 removing substances from its persistent, bioaccumulative, toxic
10 substance working list and for altering the priority assigned
11 individual persistent, bioaccumulative, toxic substances.

12 (5) The department must use the working list to establish the
13 priority for selecting specific persistent, bioaccumulative, toxic
14 substances for risk management action by the state.

15 (6) The department must initially consider for placement on its
16 persistent, bioaccumulative, toxic substance working list: Aldrin,
17 chlordane, dieldrin, endrin, heptachlor, hexachlorobenzene, mercury,
18 mirex, toxaphene, polychlorinated biphenyls, DDT, and polychlorinated
19 dibenzo-p-dioxin and dibenzofurans. The department shall include on
20 its persistent, bioaccumulative, toxic substance working list only
21 those internationally recognized priority persistent, bioaccumulative,
22 toxic substances that are present in the state's environment and pose
23 an unreasonable risk to human health or the environment in the state.

24 NEW SECTION. **Sec. 4.** MANAGEMENT OF PERSISTENT, BIOACCUMULATIVE,
25 TOXIC SUBSTANCES. When designing and implementing actions to manage
26 persistent, bioaccumulative, toxic substances in order to reduce and,
27 where feasible, eliminate risks to human health and the environment
28 within the state, the department must use the following process:

29 (1) Every two years the department may select from its persistent,
30 bioaccumulative, toxic substance working list, those substances that
31 pose the greatest risk to human health and the environment within the
32 state. The department must select for risk management actions the
33 number of priority persistent, bioaccumulative, toxic substances that
34 it has the resources and ability to fully address.

35 (2) The department must develop an inventory of sources, uses,
36 stockpiles, and reservoirs of priority persistent, bioaccumulative,
37 toxic substances selected for risk management activity. The
38 inventories must include all sources of priority persistent,

1 bioaccumulative, toxic substances selected for action within the state,
2 including industrial, nonindustrial, and natural sources of selected
3 priority persistent, bioaccumulative, toxic substances.

4 (3) The department must identify all regulatory and nonregulatory
5 measures available to the department to manage selected priority
6 persistent, bioaccumulative, toxic substances. The department must
7 also identify federal regulatory and nonregulatory programs for
8 managing priority persistent, bioaccumulative, toxic substances
9 selected for action.

10 (4) The department must identify regulatory and nonregulatory
11 options for managing the potential human health and environmental risks
12 associated with exposure to priority persistent, bioaccumulative, toxic
13 substances selected for action.

14 (5) The department must identify economic, environmental, and
15 social factors associated with management options for priority
16 persistent, bioaccumulative, toxic substances selected for action, and
17 quantify the economic, environmental, and social impacts associated
18 with different persistent, bioaccumulative, toxic substance management
19 options.

20 (6) The department must assess the possible risks and impacts
21 associated with different persistent, bioaccumulative, toxic substance
22 management options. The department must consider the cost and
23 availability of alternate products and processes and the risks posed by
24 such alternative products and processes. The department must also
25 consider the impact different persistent, bioaccumulative, toxic
26 substance management options may have on waste generation and disposal
27 capacity within the state.

28 (7) The department must select and implement risk management
29 actions to reduce the potential human health and environmental risks
30 associated with exposures to priority persistent, bioaccumulative,
31 toxic substances selected for action. In selecting persistent,
32 bioaccumulative, toxic substance management options, the department
33 must analyze and consider all available approaches, including voluntary
34 and educational programs, to manage priority persistent,
35 bioaccumulative, toxic substances. If nonregulatory approaches are
36 insufficient to adequately manage the risks posed by selected priority
37 persistent, bioaccumulative, toxic substances, the department must use
38 available rule-making authority to manage persistent, bioaccumulative,
39 toxic substances and, to the extent necessary, adopt other necessary

1 rules for managing persistent, bioaccumulative, toxic substances
2 consistent with state law.

3 (8) Regulatory approaches for managing priority persistent,
4 bioaccumulative, toxic substances selected for action must:

5 (a) Be based on best available science;

6 (b) Be technologically and practically feasible;

7 (c) Explore use of innovative technologies;

8 (d) Minimize socioeconomic impacts on the state and its citizens;

9 (e) Result in measurable benefits to human health or the
10 environment in the state;

11 (f) Use a multimedia approach;

12 (g) Coordinate with relevant national and international efforts;

13 (h) Be cost-effective;

14 (i) Be effective and efficient for purposes of reducing risks to
15 human health and the environment; and

16 (j) Reduce overall risks to human health and the environment.

17 (9) The department must involve stakeholders in the selection of
18 risk management actions to reduce and, where feasible, eliminate the
19 potential human health and environmental risks associated with
20 exposures to priority persistent, bioaccumulative, toxic substances.

21 NEW SECTION. **Sec. 5.** MEASUREMENT AND REPORTING REQUIREMENTS. (1)
22 Every two years the department must measure its progress towards
23 reducing and, where feasible, eliminating risks posed by persistent,
24 bioaccumulative, toxic substances achieved by implemented persistent,
25 bioaccumulative, toxic substance management actions.

26 (2) The department must develop and implement additional or
27 alternative persistent, bioaccumulative, toxic substance risk
28 management actions if the department finds that existing persistent,
29 bioaccumulative, toxic substance risk management actions are not
30 sufficiently protective of human health or the environment, or if the
31 department finds that existing persistent, bioaccumulative, toxic
32 substance risk management actions no longer comply with section 4(8) of
33 this act. Additional or alternative persistent, bioaccumulative, toxic
34 substance risk management actions must comply with section 4 of this
35 act.

36 (3) Every two years the department must update its inventory of
37 services, uses, stockpiles, and reservoirs of priority persistent,
38 bioaccumulative, toxic substances selected for risk management

1 activities. The inventory updates will report on all sources of
2 priority persistent, bioaccumulative, toxic substances selected for
3 action including industrial, nonindustrial, and natural sources.

4 (4) The department must issue biennial reports to the legislature
5 and describe the department's progress towards managing persistent,
6 bioaccumulative, toxic substances in the state and the effectiveness of
7 the department's persistent, bioaccumulative, toxic substance risk
8 management activities. The biennial reports must also include the
9 department's updated inventory of sources, uses, stockpiles, and
10 reservoirs of priority persistent, bioaccumulative, toxic substances
11 selected for risk management activities.

12 NEW SECTION. **Sec. 6.** The department must adopt rules to implement
13 and enforce this chapter.

14 NEW SECTION. **Sec. 7.** Captions used in this act are not any part
15 of the law.

16 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2002.

17 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
18 a new chapter in Title 70 RCW.

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