AN ACT Relating to protecting children from area-wide soil contamination; adding a new section to chapter 74.15 RCW; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that emissions from metal smelters, the use of lead arsenate pesticides, the combustion of leaded gasoline, and other sources have contributed to arsenic and lead soil contamination covering dispersed areas in the state. The legislature therefore finds it in the public interest to expedite measures to protect children's health by increasing awareness of the potential for elevated levels of arsenic and lead contamination, conduct soil testing at schools and child care facilities, and provide technical and financial assistance to implement mitigation measures that reduce the risk of exposure.

NEW SECTION. Sec. 2. (1) "Area-wide soil contamination" means low to moderate arsenic and lead soil contamination dispersed over a large geographic area.
(2) "Area-wide soil contamination zone" means an area the department has determined a potential exists for area-wide soil contamination.

(3) "Child care facility" means a child day-care center or a family day-care provider as those terms are defined under RCW 74.15.020.

(4) "Department" means the department of ecology.

(5) "Director" means the director of the department of ecology.

(6) "Low to moderate soil contamination" means low level arsenic or lead concentrations where a child's exposure to soil contamination at a school or a child care facility may be reduced through the implementation of a property-specific public health plan.

(7) "Property-specific public health plan" means measures developed by the department for a school or a child care facility including individual protective measures, site-specific mitigation, and other remedial actions to protect public health on sites containing area-wide soil contamination.

(8) "School" means a public or private kindergarten, elementary, or secondary school.

NEW SECTION. Sec. 3. The department, in cooperation with the department of social and health services and the department of health, shall establish an area-wide soil contamination school and child care facility certification program for schools and child care facilities within area-wide soil contamination zones to reduce the potential for children's exposure to area-wide soil contamination. The school and child care facility certification program shall include:

(1) An education and awareness strategy to notify schools and owners and operators of child care facilities, parents, and caretakers regarding area-wide soil contamination and the school and child care facility certification program;

(2) Qualitative assessments for schools and child care facilities within an area-wide soil contamination zone;

(3) Soil testing requirements for schools and child care facilities within an area-wide soil contamination zone;

(4) Notification requirements for schools and child care facilities within an area-wide soil contamination zone to notify parents and guardians regarding results of soil tests;
(5) Mitigation requirements for schools and child care facilities within an area-wide soil contamination zone to implement property-specific public health plans when required by the department;

(6) Certification requirements demonstrating schools and day care facilities are in compliance with this act; and

(7) Licensing requirements for owners and operators of child care facilities to comply with area-wide soil contamination child care facility certification requirements when obtaining or renewing licenses required under chapter 74.15 RCW.

NEW SECTION. Sec. 4. The department shall exercise the following powers, in addition to any other powers granted by law, to implement the provisions of this chapter:

(1) The director shall adopt by rule a definition for area-wide soil contamination. The definition shall specify the level of arsenic and lead concentrations where exposure must be reduced through the implementation of a property-specific public health plan.

(2) The director shall adopt by rule area-wide soil contamination zones. The area-wide soil contamination zone shall be based on current information regarding presence of area-wide soil contamination, and may be amended as additional information is available.

(3) The director shall adopt by rule soil sampling protocols for testing soils at schools and child care facilities within area-wide soil contamination zones.

(4) The department may adopt rules to implement the provisions of this chapter.

NEW SECTION. Sec. 5. (1) The superintendent or board of directors of a school or the owner or operator of a child care facility within an area-wide soil contamination zone shall perform the following activities:

(a) Conduct qualitative evaluations to determine the potential for children's exposure to area-wide soil contamination by December 31, 2006.

(b) If the qualitative evaluation determines that children may be routinely exposed to area-wide soil contamination, conduct soil samples by December 31, 2008.
(c) If soil sample results confirm the presence of area-wide soil contamination, develop and implement a property-specific public health plan by July 1, 2009, provided that state or local financial assistance to cover at least fifty percent of the cost of implementing the plan is available. If adequate financial assistance is not available, property-specific public health plans may be delayed until adequate matching funding is available.

(2) Qualitative evaluations, soil sampling and testing, and property-specific public health plans shall comply with the requirements developed by the department under sections 3 and 4 of this act.

(3) The results of all qualitative evaluation, soil sampling and testing, and property-specific public health plans and documentation of implementation of these plans shall be provided to the department.

(4) The superintendent or board of directors of a school or owner or operator of a child care facility within an area-wide soil contamination zone shall provide written notification annually or upon enrollment to parents and guardians describing the area-wide soil contamination test results. If test results confirm the presence of area-wide soil contamination, the notification shall include a description of the property-specific public health plan and the current status of implementing the plan. This notification is not necessary once the property-specific public health plan has been fully implemented.

NEW SECTION. Sec. 6. (1) The department shall assist schools and owners and operators of child care facilities in area-wide soil contamination zones. Such assistance may include the following:

(a) Technical assistance in conducting qualitative evaluations to determine where area-wide soil contamination exposures could occur;

(b) Technical and financial assistance in testing soils where evaluations indicate potential for contamination; and

(c) Technical and financial assistance to implement property-specific public health plans.

(2) The department shall develop best management practice guidelines for schools and day care facilities with area-wide soil contamination. The guidelines shall recommend cost-effective methods for reducing exposure to contaminated soil.
(3) The department, within available funds, may provide grants to local health jurisdictions for the purpose of providing technical assistance to schools and day care facilities to implement best management practices.

NEW SECTION. Sec. 7. The department of health shall assist the department in developing and implementing the area-wide soil contamination school and child care facility certification program including but not limited to developing best management practices and guidelines for property-specific public health plans.

NEW SECTION. Sec. 8. If the superintendent or the board of directors of a school does not comply with the provisions of this chapter, any citizen in the school district or parent or guardian of a student in a school within an area-wide soil contamination zone has standing to seek enforcement of the requirements of this chapter in the superior court of the state of Washington in the county where the school is located.

NEW SECTION. Sec. 9. The department may enforce this chapter through remedial action orders under chapter 70.105D RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW to read as follows:

(1) The department shall implement the area-wide soil contamination school and child care facility certification program under sections 3 and 4 of this act in coordination with existing licensing requirements for child day-care centers and family day-care providers under this chapter.

(2) An owner or operator of a child day-care center or a family day-care provider must comply with sections 3 and 5 of this act to receive a license or renew an existing license under this chapter.

NEW SECTION. Sec. 11. Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

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