
SUBSTITUTE SENATE BILL 6620

State of Washington

60th Legislature

2008 Regular Session

By Senate Water, Energy & Telecommunications (originally sponsored by Senators Pridemore, Oemig, Hatfield, Fraser, Rasmussen, and Shin; by request of Lieutenant Governor)

READ FIRST TIME 02/07/08.

1 AN ACT Relating to an exemption for manufacturers of biological
2 remediation technologies for use in on-site sewage disposal systems;
3 amending RCW 70.118.020; adding a new section to chapter 70.118 RCW;
4 creating new sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that discharges from
7 failing on-site sewage systems are a serious cause of pollution in
8 Washington's waterways, including Hood Canal, and a continuing threat
9 to public health and the shellfish industry. The financial cost for
10 many homeowners to fix failing or outdated on-site sewage systems may
11 be prohibitive.

12 The legislature recognizes new technologies may have the potential
13 to assist homeowners who wish to repair or upgrade their on-site sewage
14 disposal systems. However, regulatory barriers may inhibit homeowner's
15 access to these new technologies.

16 It is the intent of the legislature to assist homeowners to
17 voluntarily upgrade or repair their failing on-site sewage disposal
18 systems by removing regulatory barriers to access of new technologies
19 for on-site sewage systems.

1 **Sec. 2.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read
2 as follows:

3 (~~As used~~) The definitions in this section apply throughout this
4 chapter(~~, the terms defined in this section shall have the meanings~~
5 ~~indicated~~) unless the context clearly (~~indicates~~) requires
6 otherwise.

7 (1) "Nonwater-carried sewage disposal devices" means any device
8 that stores and treats nonwater-carried human urine and feces.

9 (2) "Alternative methods of effluent disposal" means systems
10 approved by the department (~~of health~~), including at least, mound
11 systems, alternating drainfields, anaerobic filters, evapotranspiration
12 systems, and aerobic systems.

13 (3) "Failure" means: (a) Effluent has been discharged on the
14 surface of the ground prior to approved treatment; or (b) effluent has
15 percolated to the surface of the ground; or (c) effluent has
16 contaminated or threatens to contaminate a groundwater supply.

17 (4) "Additive" means any commercial product intended to affect the
18 performance or aesthetics of an on-site sewage disposal system.

19 (5) "Department" means the department of health.

20 (6) "On-site sewage disposal system" means any system of piping,
21 treatment devices, or other facilities that convey, store, treat, or
22 dispose of sewage on the property where it originates or on nearby
23 property under the control of the user where the system is not
24 connected to a public sewer system. For purposes of this chapter, an
25 on-site sewage disposal system does not include indoor plumbing and
26 associated fixtures.

27 (7) "Chemical additive" means those additives containing acids,
28 bases, or other chemicals deemed unsafe by the department for use in an
29 on-site sewage disposal system.

30 (8) "Additive manufacturer" means any person who manufactures,
31 formulates, blends, packages, or repackages an additive product for
32 sale, use, or distribution within the state.

33 (9) "Repair" means relocation, replacement, or reconstruction of a
34 failed on-site sewage disposal system.

35 (10) "Biological remediation" includes: (a) A process that uses
36 microorganisms to return a contaminated environment, including a
37 drainfield or soil dispersal component, to a state of nonfailure; or
38 (b) a process that uses microorganisms to sufficiently increase the

1 infiltration rate through and into the soil below the infiltrative
2 surface of a clogged infiltrative surface on-site sewage disposal
3 system.

4 NEW SECTION. **Sec. 3.** (1) Manufacturers of biological remediation
5 technologies for use in the recovery of failed drainfields of on-site
6 sewage disposal systems must provide documentation of verified product
7 performance as required in (a) or (b) of this subsection to the local
8 health jurisdiction where the product will be installed. Manufacturers
9 of biological remediation technologies for use in the recovery of
10 failed drainfields of on-site sewage disposal systems are not required
11 to register their proprietary treatment products with the department if
12 the following conditions are met:

13 (a) Product performance is verified through product testing using
14 international association of plumbing and mechanical officials guide
15 criteria standard 180-2003, or an equivalent standard, which relates to
16 aerobic bacterial generators for insert into septic tanks, grease
17 interceptors, and grease traps; and

18 (i) Product performance is verified through product testing
19 conducted by a testing facility conforming with the American national
20 standards institute requirements;

21 (ii) The biological component of the product meets the conditions
22 of RCW 70.118.060 relating to additive regulation; and

23 (iii) The biological remediation technology is used solely for the
24 purpose of remedying or fixing a clogged infiltrative surface in a
25 failed on-site sewage disposal system; or

26 (b) Third-party field testing conducted in or out of Washington
27 state, accredited by the American national standards institute,
28 university testing data, or a department-approved entity, showing
29 remediation of a failed drainfield within ninety days; and

30 (i) Product performance is verified through product testing
31 conducted by a testing facility conforming with the American national
32 standards institute requirements;

33 (ii) The biological component of the product meets the conditions
34 of RCW 70.118.060 relating to additive regulation; and

35 (iii) The biological remediation technology is used solely for the
36 purpose of remedying or fixing a clogged infiltrative surface in a
37 failed on-site sewage disposal system.

1 (2) The definitions in RCW 70.118.020 apply throughout this
2 section.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.118 RCW
4 to read as follows:

5 (1) Biological remediation technology may be used in on-site sewage
6 disposal systems not in a state of failure for the purpose of
7 preventing clogged infiltrative surfaces.

8 (2) On-site wastewater treatment system designers licensed under
9 chapter 18.210 RCW, installers approved by the local health officer to
10 install on-site sewage disposal systems or components, professional
11 engineers licensed under chapter 18.43 RCW, or licensed on-site
12 wastewater treatment system operation and maintenance professionals may
13 install biological remediation products for use in on-site sewage
14 disposal systems not in a state of failure.

15 (3) A permit is not required for the installation or use of
16 biological remediation devices when an on-site sewage disposal system
17 is not in a state of failure. A local health jurisdiction may require
18 registration for tracking purposes.

19 (4) Purchasers of biological remediation devices for use in on-site
20 sewage disposal systems not in a state of failure are required to
21 maintain an operation and maintenance contract with a licensed on-site
22 sewage professional as described in subsection (2) of this section. A
23 local health jurisdiction may require yearly reporting of data
24 collected from the operation and maintenance inspections by the
25 licensed on-site sewage professional.

26 (5) Biological remediation products used for installation in
27 on-site sewage disposal systems not in a state of failure must qualify
28 for an exemption from the state list of approved products under the
29 requirements established in section 3 of this act. Upon adoption of
30 rules by the state board of health on July 1, 2010, biological
31 remediation products used for installation in on-site sewage disposal
32 systems not in a state of failure must be on the state list of approved
33 biological remediation products for use in the state under the new
34 standards.

35 NEW SECTION. **Sec. 5.** (1) The state board of health shall adopt

1 rules by July 1, 2010, for verification of biological remediation
2 products performance and use of products with verified performance for
3 use in failing on-site sewage disposal systems.

4 (2) The rules must stipulate requirements for:

5 (a) Permitting, ongoing certification of products, continued
6 product use, and requirements for removal of biological remediation
7 products;

8 (b) Monitoring of on-site sewage disposal systems using biological
9 remediation technology and at least annual inspection of failing on-
10 site sewage disposal systems that have biological remediation
11 technologies installed to return any component of the on-site sewage
12 disposal system to a state of nonfailure; and

13 (c) Certifying, registering, and using biological remediation
14 products without a permit as a preventative measure in on-site sewage
15 disposal systems not in a state of failure.

16 (3) The definitions in RCW 70.118A.020 apply throughout this
17 section.

18 NEW SECTION. **Sec. 6.** (1) A local health jurisdiction may permit
19 biological remediation products for use in failing on-site sewage
20 disposal systems. Prior to issuing a permit for a biological
21 remediation product, the local health officer or on-site wastewater
22 treatment system designer licensed under chapter 18.210 RCW must
23 perform an assessment, considering site and effluent specific
24 characteristics, of the on-site sewage disposal system to determine if
25 biological remediation technology is appropriate to bring the system
26 into a state of nonfailure and that the biological remediation
27 technology will not adversely impact the environment or public health
28 by increased wastewater flows through the on-site sewage disposal
29 system and soil.

30 (2) The permit must state inspection, monitoring, and maintenance
31 requirements.

32 (3) The local health jurisdiction must require system repairs to
33 meet on-site sewage disposal system requirements as found in chapter
34 246-272A WAC if an on-site sewage disposal system with a biological
35 remediation product does not remedy a clogged infiltrative surface
36 within three months.

37 (4) Each permit must include:

1 (a) A plan with a time frame for correcting any public health
2 concern associated with the failing on-site sewage disposal system and
3 the means to protect public health until the concern is addressed;

4 (b) A plan for operation and maintenance that is filed with the
5 local health jurisdiction;

6 (c) A schedule for maintenance and operation reports detailing the
7 status of the on-site sewage disposal system with the local health
8 jurisdiction where the on-site sewage disposal system is located;

9 (d) A contract with the owner of the on-site sewage disposal system
10 with a biological remediation product for inspection and monitoring by
11 an inspector certified under RCW 70.118.120 or local health officer;

12 (e) Information for the owner of an on-site sewage disposal system
13 with a biological remediation product that includes: (i) Instructions
14 for appropriate maintenance and operation of an on-site sewage system;
15 and (ii) a statement that if the on-site sewage disposal system remains
16 in a state of failure after three months, the owner will be required to
17 repair the on-site sewage disposal system as required by chapter 246-
18 272A WAC, and an estimate of those costs; and

19 (f) A signed document from the homeowner allowing the local health
20 officer to enter the property for the purpose of determining if a
21 biological remediation product has remedied a failed drainfield after
22 ninety days of installation. Failure to allow access for the
23 inspection voids the permit and the local health jurisdiction may
24 prohibit the use of the system until the inspection occurs.

25 (5) If a biological remediation product fails to make significant
26 improvements in the condition of a failed drainfield within ninety days
27 of installation and it is determined by the local health officer that
28 a repair must be made to correct the failure, and the purchaser of the
29 biological remediation device requests in writing the removal of the
30 biological remediation device and reimbursement, then the on-site
31 professional who installed the biological remediation device shall
32 reimburse the purchaser for the direct cost of the product and
33 installation.

34 (6) The definitions in RCW 70.118.020 apply throughout this
35 section.

36 NEW SECTION. **Sec. 7.** (1) Only on-site wastewater treatment system
37 designers licensed under chapter 18.210 RCW, installers approved by the

1 local health officer to install on-site sewage disposal systems or
2 components, or professional engineers licensed under chapter 18.43 RCW
3 are permitted to install biological remediation products for use in
4 failing on-site sewage disposal systems.

5 (2) The definitions in RCW 70.118.020 apply throughout this
6 section.

7 NEW SECTION. **Sec. 8.** Sections 3 and 5 through 7 of this act
8 expire July 1, 2010.

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