
HOUSE BILL 1028

State of Washington

65th Legislature

2017 Regular Session

By Representatives Pollet, Farrell, and Appleton

Prefiled 12/08/16. Read first time 01/09/17. Referred to Committee on Environment.

1 AN ACT Relating to reducing air pollution associated with asphalt
2 production in urban areas; amending RCW 70.94.370; adding a new
3 section to chapter 70.94 RCW; adding a new section to chapter 46.61
4 RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes the long
7 tradition in Washington state of allowing local governments to take
8 steps to preserve public health and safety within their
9 jurisdictions. Furthermore, the legislature finds that in recognition
10 of this tradition, state air regulations and traffic rules have long
11 preserved certain authorities to local governments to adopt measures
12 to protect public health and safety. Therefore, it is the intent of
13 the legislature to ensure that cities retain proper latitude, via air
14 regulations or traffic controls, to address risks to public health
15 and safety that may be posed by certain industrial facilities that
16 have a propensity for generating foul odors and nuisance complaints.

17 **Sec. 2.** RCW 70.94.370 and 1979 c 141 s 123 are each amended to
18 read as follows:

1 No provision of this chapter or any recommendation of the state
2 board or of any local or regional air pollution program is a
3 limitation:

4 (1) On the power of any city, town, or county to declare,
5 prohibit, and abate nuisances, or on the power of a city to address
6 nuisances or complaints regarding perceived nuisances by the methods
7 described in section 3 of this act.

8 (2) On the power of the secretary of social and health services
9 to provide for the protection of the public health under any
10 authority presently vested in that office or which may be hereafter
11 prescribed by law.

12 (3) On the power of a state agency in the enforcement, or
13 administration of any provision of law which it is specifically
14 permitted or required to enforce or administer.

15 (4) On the right of any person to maintain at any time any
16 appropriate action for relief against any air pollution.

17 NEW SECTION. Sec. 3. A new section is added to chapter 70.94
18 RCW to read as follows:

19 In order to address nuisances or complaints regarding perceived
20 nuisances, a city planning under RCW 36.70A.040 by ordinance may
21 require a facility producing asphalt or asphalt products to enclose
22 some or all of the production process, including the loading of
23 finished asphalt or asphalt products into motor vehicles for
24 transportation off-site. A city ordinance adopted under this section
25 may require an enclosed asphalt production facility to control
26 emissions through the application of appropriate emission controls or
27 best management practices to reduce emissions, or both. An ordinance
28 adopted pursuant to this section must provide that violations are
29 subject to the penalties provided under this chapter.

30 NEW SECTION. Sec. 4. A new section is added to chapter 46.61
31 RCW to read as follows:

32 (1) For the purposes of reducing public exposure to criteria
33 pollutants regulated under chapter 70.94 RCW, a city planning under
34 RCW 36.70A.040 by ordinance may require motor vehicles transporting a
35 load of asphalt or asphalt products to cover the load in such a
36 manner prescribed by the city. A city may apply the load covering
37 requirements authorized in this section to all roads located within

1 the boundaries of the city, including all highways, state highways,
2 and city streets designated a part of the route of any state highway.

3 (2) Nothing in this section authorizes a city to require motor
4 vehicles to secure a load of aggregate materials used in the
5 production of asphalt if those aggregate materials do not contain
6 petroleum-based materials. Nothing in this section affects the load
7 covering requirements of RCW 46.61.655.

8 (3) A city imposing a requirement under subsection (1) of this
9 section shall erect and maintain signs denoting the requirements of
10 the ordinance at each end of the portion of any state highway
11 affected by the ordinance. A city ordinance adopted under this
12 section is not effective unless and until the signs are erected and
13 maintained.

14 (4) An ordinance adopted pursuant to this section must provide
15 that violations are subject to the penalties for traffic infractions
16 provided under chapter 46.63 RCW.

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