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**SUBSTITUTE HOUSE BILL 2640**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on Environmental Affairs (originally sponsored by Representatives R. Johnson, Rust, Kremen, Roland, Heavey, Rasmussen and Spanel)

Read first time 02/05/92.

1 AN ACT Relating to municipal sewage sludge; amending RCW  
2 43.19A.010, 43.21B.110, 47.28.220, and 70.95.255; adding a new chapter  
3 to Title 70 RCW; recodifying RCW 70.95.255; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Municipal sewage sludge is an unavoidable byproduct of the  
7 wastewater treatment process;

8 (b) Population increases and technological improvements in  
9 wastewater treatment processes will double the amount of sludge  
10 generated within the next ten years;

11 (c) Sludge management is often a financial burden to municipalities  
12 and to ratepayers;

1 (d) Properly managed municipal sewage sludge is a valuable  
2 commodity and can be beneficially used in agriculture, silviculture,  
3 and in landscapes as a soil conditioner; and

4 (e) Municipal sewage sludge can contain metals and microorganisms  
5 that, under certain circumstances, may pose a risk to public health.

6 (2) The legislature declares that a program shall be established to  
7 manage municipal sewage sludge and that the program shall, to the  
8 maximum extent possible, ensure that municipal sewage sludge is reused  
9 as a beneficial commodity and is managed in a manner that minimizes  
10 risk to public health and the environment.

11 NEW SECTION. **Sec. 2.** The purpose of this chapter is to  
12 provide the department of ecology and local governments with the  
13 authority and direction to meet federal regulatory requirements for  
14 municipal sewage sludge.

15 NEW SECTION. **Sec. 3.** Unless the context clearly requires  
16 otherwise, the definitions in this section apply throughout this  
17 chapter.

18 (1) "Department" means the department of ecology.

19 (2) "Local health department" has the same meaning as  
20 "jurisdictional health department" in RCW 70.95.030.

21 (3) "Municipal sewage sludge" means a semisolid substance  
22 consisting of settled sewage solids combined with varying amounts of  
23 water and dissolved materials generated from a publicly owned  
24 wastewater treatment plant.

25 NEW SECTION. **Sec. 4.** (1) The department shall adopt rules to  
26 implement a sludge management program within twelve months of the  
27 adoption of federal rules, 40 C.F.R. Sec. 503, relating to technical

1 standards for the use and disposal of municipal sewage sludge. The  
2 sludge management program shall, at a minimum, conform with all  
3 applicable federal rules adopted pursuant to the federal clean water  
4 act as it existed on February 4, 1987.

5 (2) In addition to any federal requirements, the state sludge  
6 management program may include, but not be limited to, an education  
7 program to provide relevant legal and scientific information to local  
8 governments and citizen groups.

9 (3) Rules adopted by the department under this section shall  
10 provide for public input and involvement for all state and local  
11 permits.

12 NEW SECTION. **Sec. 5.** The department may work with all  
13 appropriate state agencies, local governments, and private entities to  
14 establish beneficial uses for municipal sewage sludge.

15 NEW SECTION. **Sec. 6.** If a person violates any provision of  
16 this chapter, or a permit issued or rule adopted pursuant to this  
17 chapter, the department may issue an appropriate order to assure  
18 compliance with the chapter, permit, or rule.

19 NEW SECTION. **Sec. 7.** The department, with the assistance of  
20 the attorney general, may bring an action at law or in equity,  
21 including an action for injunctive relief, to enforce this chapter or  
22 a permit issued or rule adopted by the department pursuant to this  
23 chapter.

24 NEW SECTION. **Sec. 8.** A person who willfully violates, without  
25 sufficient cause, any of the provisions of this chapter, or a permit or  
26 order issued pursuant to this chapter, is guilty of a gross

1 misdemeanor. Willful violation of this chapter, or a permit or order  
2 issued pursuant to this chapter is a gross misdemeanor punishable by a  
3 fine of up to ten thousand dollars and costs of prosecution, or by  
4 imprisonment for up to one year, or by both. Each day of violation may  
5 be deemed a separate violation.

6 NEW SECTION. **Sec. 9.** In addition to any other penalty  
7 provided by law, a person who violates this chapter or rules or orders  
8 adopted or issued pursuant to it shall be subject to a penalty in an  
9 amount of up to five thousand dollars a day for each violation. Each  
10 violation shall be a separate violation. In the case of a continuing  
11 violation, each day of violation is a separate violation. An act of  
12 commission or omission that procures, aids, or abets in the violation  
13 shall be considered a violation under this section.

14 NEW SECTION. **Sec. 10.** The department may delegate to a local  
15 health department the powers necessary to issue and enforce permits to  
16 use or dispose of municipal sewage sludge. A delegation may be  
17 withdrawn if the department finds that a local health department is not  
18 effectively administering the permit program.

19 NEW SECTION. **Sec. 11.** (1) Any permit issued by a local health  
20 department under section 10 of this act may be reviewed by the  
21 department to ensure that the proposed site or facility conforms with:

22 (a) All applicable laws and rules; and

23 (b) The approved comprehensive solid waste management plan under  
24 chapter 70.95 RCW.

25 (2) If the department does not approve or disapprove a permit  
26 within sixty days, the permit shall be considered approved.

1 (3) A local health department may appeal the department's decision  
2 to disapprove a permit to the pollution control hearings board, as  
3 provided in chapter 43.21B RCW.

4 **Sec. 12.** RCW 43.19A.010 and 1991 c 297 s 2 are each amended to  
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Compost products" means mulch, soil amendments, ground cover,  
9 or other landscaping material derived from the biological or mechanical  
10 conversion of municipal sewage sludge or cellulose-containing waste  
11 materials.

12 (2) "Department" means the department of general administration.

13 (3) "Director" means the director of the department of general  
14 administration.

15 (4) "Local government" means a city, town, county, special purpose  
16 district, school district, or other municipal corporation.

17 (5) "Lubricating oil" means petroleum-based oils for reducing  
18 friction in engine parts and other mechanical parts.

19 (6) "Mixed waste paper" means assorted low-value grades of paper  
20 that have not been separated into individual grades of paper at the  
21 point of collection.

22 (7) "Municipal sewage sludge" means a semisolid substance  
23 consisting of settled sewage solids combined with varying amounts of  
24 water and dissolved materials generated from a municipal wastewater  
25 treatment plant.

26 (8) "Paper and paper products" means all items manufactured from  
27 paper or paperboard.

1       (~~(8)~~) (9) "Postconsumer waste" means a material or product that  
2 has served its intended use and has been discarded for disposal or  
3 recovery by a final consumer.

4       (~~(9)~~) (10) "Procurement officer" means the person that has the  
5 primary responsibility for procurement of materials or products.

6       (~~(10)~~) (11) "State agency" means all units of state government,  
7 including divisions of the governor's office, the legislature, the  
8 judiciary, state agencies and departments, correctional institutions,  
9 vocational technical institutions, and universities and colleges.

10       (~~(11)~~) (12) "Recycled content product" or "recycled product"  
11 means a product containing recycled materials.

12       (~~(12)~~) (13) "Recycled materials" means waste materials and by-  
13 products that have been recovered or diverted from solid waste and that  
14 can be utilized in place of a raw or virgin material in manufacturing  
15 a product and consists of materials derived from postconsumer waste,  
16 manufacturing waste, industrial scrap, agricultural wastes, and other  
17 items, all of which can be used in the manufacture of new or recycled  
18 products.

19       (~~(13)~~) (14) "Re-refined oils" means used lubricating oils from  
20 which the physical and chemical contaminants acquired through previous  
21 use have been removed through a refining process. Re-refining may  
22 include distillation, hydrotreating, or treatments employing acid,  
23 caustic, solvent, clay, or other chemicals, or other physical  
24 treatments other than those used in reclaiming.

25       (~~(14)~~) (15) "USEPA product standards" means the product standards  
26 of the United States environmental protection agency for recycled  
27 content published in the code of federal regulations.

28       **Sec. 13.** RCW 43.21B.110 and 1989 c 175 s 102 are each amended to  
29 read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and  
2 decide appeals from the following decisions of the department, the  
3 director, and the air pollution control boards or authorities as  
4 established pursuant to chapter 70.94 RCW, or local health departments:

5 (a) Civil penalties imposed pursuant to RCW 70.94.431, 70.105.080,  
6 70.107.050, 90.03.600, 90.48.144, and (~~90.48.350~~) 90.56.330.

7 (b) Orders issued pursuant to RCW 43.27A.190, 70.94.211, 70.94.332,  
8 70.105.095, 86.16.020, 90.14.130, and 90.48.120.

9 (c) The issuance, modification, or termination of any permit,  
10 certificate, or license by the department or any air authority in the  
11 exercise of its jurisdiction, including the issuance or termination of  
12 a waste disposal permit, the denial of an application for a waste  
13 disposal permit, or the modification of the conditions or the terms of  
14 a waste disposal permit.

15 (d) Decisions of local health departments regarding the grant or  
16 denial of solid waste permits pursuant to chapter 70.95 RCW.

17 (e) Decisions of local health departments regarding the issuance  
18 and enforcement of permits to use or dispose of municipal sewage sludge  
19 under section 10 of this act.

20 (f) Any other decision by the department or an air authority which  
21 pursuant to law must be decided as an adjudicative proceeding under  
22 chapter 34.05 RCW.

23 (2) The following hearings shall not be conducted by the hearings  
24 board:

25 (a) Hearings required by law to be conducted by the shorelines  
26 hearings board pursuant to chapter 90.58 RCW.

27 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
28 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

29 (c) Proceedings by the department relating to general adjudications  
30 of water rights pursuant to chapter 90.03 or 90.44 RCW.

1 (d) Hearings conducted by the department to adopt, modify, or  
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board  
4 shall be subject to review in accordance with the provisions of the  
5 Administrative Procedure Act, chapter 34.05 RCW.

6 **Sec. 14.** RCW 47.28.220 and 1991 c 297 s 14 are each amended to  
7 read as follows:

8 (1) A contract awarded in whole or in part for the purchase of  
9 compost products as a soil cover or soil amendment to state highway  
10 rights of way shall specify that compost products be purchased in  
11 accordance with the following schedule:

12 (a) For the period July 1, 1991, through June 30, 1993, twenty-five  
13 percent of the total dollar amount purchased;

14 (b) For the period July 1, 1993, through June 30, 1995, fifty  
15 percent of the total dollar amount purchased. The percentages in this  
16 subsection apply only to the materials' value, and do not include  
17 services or other materials.

18 (2) In order to carry out the provisions of this section, the  
19 department of transportation shall develop and adopt bid specifications  
20 for compost products used in state highway construction projects.

21 (3) For purposes of this section, "compost products" means mulch,  
22 soil amendments, ground cover, or other landscaping material derived  
23 from the biological or mechanical conversion of municipal sewage sludge  
24 or cellulose-containing waste materials.

25 **Sec. 15.** RCW 70.95.255 and 1986 c 297 s 1 are each amended to read  
26 as follows:

27 After January 1, 1988, the department of ecology may prohibit  
28 disposal of municipal sewage sludge or septic tank sludge (septage) in

1 landfills for final disposal, except on a temporary, emergency basis,  
2 if the jurisdictional health department determines that a potentially  
3 unhealthful circumstance exists. Beneficial uses of sludge in landfill  
4 reclamation is acceptable utilization and not considered disposal.

5 The department of ecology shall adopt rules that provide exemptions  
6 from this section on a case-by-case basis. Exemptions shall be based  
7 on the economic infeasibility of using or disposing of the sludge  
8 material other than in a landfill.

9 ~~((The department of ecology, after consulting with representatives  
10 from cities, counties, special purpose districts, and operators of  
11 septic tank pump-out services, shall adopt rules for the  
12 environmentally safe use of municipal sewage sludge and septage in this  
13 state.))~~

14 The department of ecology, after consulting with representatives  
15 from the pulp and paper industry and the food processing industry, may  
16 adopt rules for the environmentally safe use of appropriate industrial  
17 sludges, such as pulp and paper sludges or food processing wastes, used  
18 to improve the texture or nutrient content of soils.

19 The department of ecology, in conjunction with the department of  
20 social and health services and the department of agriculture, shall  
21 adopt rules establishing labeling and notification requirements for  
22 sludge material sold commercially or given away to the public. The  
23 department shall specify mandatory wording for labels and notification  
24 to warn the public against improper use of the material.

25 NEW SECTION. **Sec. 16.** RCW 70.95.255 shall be recodified as a  
26 section in the new chapter created in section 17 of this act.

27 NEW SECTION. **Sec. 17.** Sections 1 through 11 of this act shall  
28 constitute a new chapter in Title 70 RCW.