

# SENATE BILL REPORT

## SHB 1817

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As Reported By Senate Committee On:  
Water, Energy & Environment, March 31, 2005

**Title:** An act relating to ensuring the lawful transport and handling of recyclable materials.

**Brief Description:** Improving recycling.

**Sponsors:** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Ericks, Hinkle, Simpson, Buck, Murray, Hankins, Williams, Haigh and McDermott).

**Brief History:** Passed House: 3/11/05, 93-0.

**Committee Activity:** Water, Energy & Environment: 3/22/05, 3/31/05 [DPA, DNP].

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### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** Do pass as amended.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Hewitt, Honeyford, Mulliken, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senator Fraser.

**Staff:** Sam Thompson (786-7413)

**Background:** With certain exceptions, solid waste collection and hauling companies, including those that collect and haul recyclable materials, must have a permit from the Washington Utilities and Transportation Commission.

Most facilities handling solid waste, including recyclable materials, must have a solid waste handling permit issued by a local health department in consultation with the Department of Ecology. Facilities that present little or no environmental risk or that satisfy environmental performance requirements established for similar facilities are exempt from this requirement. Similarly, a local health department may defer permitting requirements for certain facilities that have obtained other environmental permits.

Concern has been raised that some unauthorized businesses have illegally collected and disposed of recyclable materials. It is suggested that more stringent regulation is necessary to prevent this unauthorized practice.

**Summary of Amended Bill:** Generally, Transporters of recyclables from commercial or industrial generators over public highways for compensation who are required to possess a Washington Utilities and Transportation Commission (WUTC) operating permit must register with the Department of Ecology (DOE) prior to transporting recyclables. A transporter may not deliver recyclables for disposal to a transfer station or landfill, but may deliver recyclables

to an intermediate solid waste handling facility that maintains source-separated recyclables and further processes and markets them for recycling.

Recycling facilities not currently required to obtain solid waste handling permit must notify DOE within 30 days prior to operation, or 90 days from the bill's effective date for existing operations, of their intent to conduct recycling. Facilities handling mixed solid wastes that have not been processed to segregate recyclables are subject to solid waste handling permitting requirements.

Transporters must maintain records concerning recyclable generators and selling, delivery or other marketing of recyclables. Recycling facilities must annually file reports with DOE detailing recycling activities.

Exemptions. Exemptions to the transporter registration requirement are specified for:

- carriers of commercial recyclables owned, bought or sold by carriers, in their own vehicles, in activity incidental to their primary business;
- persons hauling their own or purchased recyclables and transported in their own vehicles;
- city solid waste departments and solid waste contractors;
- WUTC-regulated common carriers whose primary business is not transportation of recyclables; and
- nonprofit or charitable organizations.

An exemption from the recycling facility registration requirement is specified for facilities with solid waste handling permits.

Penalties. Civil penalties of up to \$1,000 per violation are provided for:

- transporters that do not register or fail to keep required records, or that deliver recyclables for disposal to a transfer station or landfill;
- facilities recycling solid waste that do not obtain a solid waste handling permit or fail to notify DOE and local health departments of their intent to conduct recycling; product take-back centers are exempted.

Any person damaged by violations may bring a civil action seeking injunctive relief or damages; the prevailing party is entitled to reasonable costs and attorneys' fees.

Financial Assurance. DOE may adopt regulations establishing financial assurance requirements for recycling facilities, except scrap metal recycling facilities, that are not already subject to financial assurance requirements.

**Amended Bill Compared to Original Bill:** Clarifies that a transporter may not deliver recyclables for disposal to a transfer station or landfill, but may deliver recyclables to an intermediate solid waste handling facility that maintains source separated recyclables and further processes and markets recyclables for recycling. Deletes requirement that recycling facilities notify and annually report to local health departments. Clarifies that any additional recycling facility reporting requirements set by DOE must be necessary to determine progress toward achieving goals of waste reduction, recycling, and treatment under the Solid Waste

Management Act. Exempts scrap metal recycling facilities from DOE authority to establish recycling facility financial assurance requirements.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested March 31, 2005.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is intended to stop "sham recyclers" that illegally haul and dump recyclables, sometimes causing costly environmental cleanup problems. It is intended to assure authorized operations, and is not intended to unduly burden or hinder legitimate transporters and recycling facilities. The recycling industry must comport with higher standards to prevent illegal dumping. Reporting requirements will provide a better assessment of current recycling operations in Washington. The private right of action provision will provide an enforcement mechanism.

**Testimony Against:** This bill is an anti-competitive measure that will discourage recycling by imposing onerous regulatory burdens. Reporting of information to local health jurisdictions will effectively reveal trade secrets and proprietary information to competitors. The private right of action provision is too onerous; the costs of defending against a suit could drive a recycler out of business. Arbitration procedures are preferable. The WUTC, not DOE, should regulate recyclers.

**Who Testified:** PRO: Vicki Austin, Washington Refuse & Recycling Association; Jerry Smedes, Basin Disposal & Emerald Services; Steve Wambach, Pierce County; Pete Keller, Rabanco; Jim Penor, Northwest Tire Recycling; Norm LeMay, Lemay Recycling Enterprises; Cullen Stephenson, Department of Ecology.

CON: Jay Sternoff, Pacific Iron & Metal; Troy Lautenbach, T&T Recovery; Jeff Gage, Swanson Bark and Wood Products, Inc.