
ENGROSSED SUBSTITUTE SENATE BILL 5445

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Kline, Pridemore, Esser, Brown, Finkbeiner, Jacobsen, Benson, Swecker, Spanel, Regala, Poulsen, Rockefeller, Rasmussen, Kohl-Welles, Weinstein and McCaslin)

READ FIRST TIME 02/17/05.

1 AN ACT Relating to regulation and cleanup of sites with mixed
2 radioactive and hazardous wastes to provide clarification for
3 interpretation of the cleanup priority act consistent with intent and
4 policy of the cleanup priority act as passed by the voters in November
5 2004; amending RCW 70.105E.030; adding a new section to chapter 70.105E
6 RCW; creating a new section; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The people of Washington state adopted the
9 cleanup priority act as Initiative 297 in November 2004. The
10 legislature finds that the intent of Initiative 297 is clearly stated
11 in the intent and policy sections of the cleanup priority act as passed
12 by the voters. The cleanup priority act makes the cleanup of
13 contamination the top priority at sites with hazardous or mixed waste
14 contamination. The cleanup priority act should be interpreted by the
15 courts consistent with the clear intent of the voters, and the findings
16 and clarifications in this act.

17 The legislature further finds that nothing in the cleanup priority
18 act is intended to, or has the effect of, preventing the movement of
19 waste from one facility or unit within a site to another as part of an

1 approved cleanup order, agreement, or plan, or pursuant to permits.
2 Because the term facility is used in different ways in different
3 statutes, rules, and regulations, the legislature finds that it is
4 desirable to clarify that the cleanup priority act does not prevent the
5 movement or transfer of waste within a site to accomplish cleanup of
6 the site. The legislature finds that the cleanup priority act does not
7 increase the universe of substances that are subject to regulation by
8 the state as hazardous or mixed wastes. The legislature finds that the
9 cleanup priority act does not regulate radioactive materials, medical
10 isotopes, other radioactive substances, or facilities exclusively
11 regulated by the United States pursuant to the federal atomic energy
12 act 42 U.S.C. Sec. 2011 et seq.

13 The legislature further finds that this chapter is not intended,
14 nor may it be interpreted, to adversely affect the transportation,
15 manufacturing, storage, or use of any hazardous substance or
16 radioactive materials necessary for medical research, medical
17 treatment, or manufacturing or industrial processes.

18 The legislature further finds that the cleanup priority act does
19 not regulate the materials or facilities used in the processing of
20 radioactive substances, including those with nonradioactive components,
21 to produce radioactive isotopes for beneficial use, such as
22 calibrations, research, and medical use. In accordance with this
23 finding, the cleanup priority act is not intended to, and shall not be
24 interpreted to, regulate those radioactive or otherwise hazardous
25 materials that may be imported to Washington state, or generated within
26 the state, to be processed for the production of beneficial products,
27 such as medical isotopes.

28 It is in the interest of the state to clarify as quickly as
29 possible that the cleanup priority act does not impact any business
30 operation, or federal or private facility, that was not intended to be
31 impacted by the cleanup priority act. Consistent with the intent of
32 the voters, the legislature finds that the universe of regulated
33 hazardous or dangerous wastes was not expanded by the passage of the
34 cleanup priority act. Because court action has prevented the normal
35 role of the department of ecology from issuing defining or interpretive
36 rules, the legislature finds that adoption of the amendments to the
37 cleanup priority act will ensure that the intent of the cleanup

1 priority act is understood and clarified for the courts as well as for
2 businesses or cleanup operations without delay.

3 **Sec. 2.** RCW 70.105E.030 and 2005 c 1 s 3 (Initiative Measure No.
4 297) are each amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Dangerous waste" has the same meaning as the term is defined
8 in RCW 70.105.010.

9 (2) "Department" means the department of ecology.

10 (3) "Dispose" or "disposal" have the same meanings as the terms are
11 defined in RCW 70.105.010.

12 (4) "Facility" has the same meaning as the term is defined in RCW
13 70.105.010.

14 (5) "Hanford" means the geographic area comprising the Hanford
15 nuclear reservation, owned and operated by the United States department
16 of energy, or any successor federal agency.

17 (6) "Hazardous substance" has the same meaning as the term is
18 defined in RCW 70.105D.020.

19 (7) "Hazardous waste" means and includes all dangerous and
20 extremely hazardous waste, as those terms are defined in RCW
21 70.105.010.

22 (8) "Local government" means a city, town, or county.

23 (9)(a) "Mixed waste" or "mixed radioactive and hazardous waste"
24 means:

25 (i) Any ((hazardous substance or)) dangerous or extremely hazardous
26 waste that contains both a nonradioactive hazardous component and a
27 radioactive component((, including)); or

28 (ii) Any ((such)) hazardous substances, as defined by RCW
29 70.105D.020 that contain both a nonradioactive and radioactive
30 hazardous component, that (A) have been released to the environment, or
31 (B) are discarded solid wastes found by the department to pose a threat
32 of future release, in a manner that may expose persons or the
33 environment to ((either the nonradioactive or radioactive hazardous
34 substances)) the release.

35 (b) Materials, useful products, or substances, including medical
36 isotopes and materials used to produce medical or industrial isotopes,
37 that are not otherwise regulated as hazardous or mixed waste under

1 chapter 70.105 RCW or the federal hazardous waste law (RCRA 42 U.S.C.
2 Sec. 6901, et seq.) are not hazardous, dangerous, or mixed waste under
3 this chapter. Mixed wastes or mixed waste facility does not include
4 radioactive materials or facilities regulated exclusively by the
5 federal government under the federal atomic energy act, 42 U.S.C. Sec.
6 2011 et seq.

7 (10) "Mixed waste surcharge" means an additional charge for the
8 purposes of local government and public participation in decisions
9 relating to mixed waste facilities((+)) to be added to the service
10 charge assessed under RCW 70.105.280 against those facilities that
11 store, treat, incinerate, or dispose of mixed wastes((+)) or against
12 facilities at which mixed wastes have been released((τ)) or which are
13 undergoing closure pursuant to chapter 70.105 RCW or remedial action
14 pursuant to chapter 70.105D RCW.

15 (11) "Person" has the same meaning as the term is defined in RCW
16 70.105D.020.

17 (12) "Release" has the same meaning as the term is defined in RCW
18 70.105D.020.

19 (13) "Remedy or remedial action" have the same meanings as the
20 terms are defined in RCW 70.105D.020.

21 (14) "Site" means the contiguous geographic area under the same
22 ownership, lease, or operation where a facility is located, or where
23 there has been a release of hazardous substances. In the event of a
24 release of hazardous substances, "site" includes any area, or body of
25 surface or ground water, where a hazardous substance has been
26 deposited, stored, disposed of, placed, migrated to, or otherwise come
27 to be located.

28 (15) Unless otherwise defined, or the context indicates otherwise,
29 terms not defined in this section have the same meaning as defined in
30 chapter 70.105 RCW, when used in this chapter.

31 NEW SECTION. Sec. 3. A new section is added to chapter 70.105E
32 RCW to read as follows:

33 Nothing in this chapter prohibits mixed wastes generated on-site as
34 part of a remedial or corrective action from being transferred to,
35 stored, treated, recycled, or disposed of at a facility or unit within
36 the site subject to applicable permits, plans, agreements, consent
37 orders, or conditions of an approved remedy or corrective action under

1 the federal superfund law, 42 U.S.C. Sec. 9601 et seq., chapter 70.105D
2 RCW, chapter 70.105 RCW, or the federal resource conservation and
3 recovery act, 42 U.S.C. Sec. 6921 et seq.

4 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately.

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