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**SENATE BILL 6083**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Cleveland, Ranker, Kuderer, Keiser, Conway, Hunt, and Hasegawa

AN ACT Relating to maintaining public health, safety, and environmental standards; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. **Sec.**  (1) The legislature finds that for over four decades Washington state and its residents have relied on federal laws, including the federal clean air act, the federal water pollution control act, and the federal safe drinking water act, together with their implementing regulations and remedies, to protect the state's public health, environmental quality, and natural resources. These federal laws establish standards that serve as the baseline level of public health and environmental protection, while expressly authorizing states like Washington to adopt more protective measures.

(2) The legislature further finds that the current presidential administration and majorities in the United States congress have presented direct challenges to these federal laws and the protections they provide, as well as to the underlying science that makes these protections necessary, and to the rights of the states to protect their own environment, natural resources, and public health as they deem necessary.

(3) Therefore, the legislature declares that it is necessary to enact legislation that will ensure continued protections for the environment, natural resources, and public health in the state even if the federal laws specified in subsection (1) of this section are undermined, amended, or repealed.

(4) The legislature further declares that the purposes of this chapter are to:

(a) Retain protections afforded under the federal laws specified in subsection (1) of this section implementing those federal laws in existence as of January 1, 2016, or January 1, 2017, whichever is more stringent, regardless of actions taken at the federal level since January 1, 2017, that weaken federal standards;

(b) Protect public health and welfare from any actual or potential adverse effect that reasonably may be anticipated to occur from pollution, including the effects of climate change;

(c) Preserve, protect, and enhance the environment and natural resources in Washington including, but not limited to, the state's national parks, national wilderness areas, national monuments, national seashores, and other areas with special natural, recreational, scenic, cultural, or historical value;

(d) Ensure that economic growth will occur in a manner consistent with the protection of public health and the environment and preservation of existing natural resources; and

(e) Ensure that any decision made by a public agency that may adversely impact public health, the environment, or natural resources is made only after careful evaluation of all the consequences of that decision and after adequate procedural opportunities for informed public participation in the decision-making process.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Baseline federal standards" means the authorizations, policies, objectives, rules, requirements, and standards contained in federal laws or federal regulations implementing the federal laws in existence as of January 1, 2016, or January 1, 2017, whichever is more stringent.

(2) "Baseline federal standards for other federal laws" means the authorizations, policies, objectives, rules, requirements, and standards contained in other federal laws or federal regulations implementing the other federal laws in existence as of January 1, 2016, or January 1, 2017, whichever is more stringent.

(3) "Department" means the department of ecology.

(4) "Federal law" means any of the following:

(a) The federal clean air act, 42 U.S.C. Sec. 7401 et seq.;

(b) The federal water pollution control act, 33 U.S.C. Sec. 1251 et seq.; and

(c) The federal safe drinking water act, 42 U.S.C. Sec. 200f et seq.

(5) "Other federal laws" means any other federal law not specified in subsection (4) of this section, relating to environmental protection, natural resources, or public health.

NEW SECTION. **Sec.**  (1) Except as authorized by state law, a state agency or regional air pollution control authority may not amend or revise its rules and regulations to be less stringent than the baseline federal standards.

(2) Except as otherwise provided in state law, a state agency or regional air pollution control authority may establish rules and regulations that are more stringent than the baseline federal standards.

(3) To the extent authorized by federal law and except as otherwise authorized by state law, a state agency or regional air pollution control authority that is delegated the authority to implement or enforce other federal laws or that implements the state law that is an analogue to the other federal laws may not amend or revise its rules and regulations to be less stringent than the baseline federal standards for other federal laws, but may establish rules and regulations for Washington that are more stringent than the baseline federal standards for other federal laws.

NEW SECTION. **Sec.**  (1) The legislature finds that the state's clean air laws in chapter 70.94 RCW and its laws limiting greenhouse gas emissions in chapter 70.235 RCW are the state analogue to the federal clean air act, 42 U.S.C. Sec. 7401 et seq.

(2) To ensure no backsliding as a result of any change in the federal clean air act or its implementing regulations, the department and all regional air pollution control authorities shall maintain and enforce all air quality requirements and standards that are at least as stringent as required by the baseline federal standards, in addition to those required under state law.

(3) To the extent that the department or a regional air pollution control authority has not established a standard or requirement for an air pollutant for which a standard or requirement exists in the baseline federal standards, the department or regional air pollution control authority shall adopt the standard or requirement to be at least as stringent as the baseline federal standard.

(4) The department and regional air pollution control authorities shall adopt elements of air quality state implementation plans that meet requirements that are at least as stringent as those required by the applicable baseline federal standards, in addition to those required by state law.

(5) If the federal transportation conformity program becomes less stringent than the applicable baseline federal standards, the department and regional air pollution control authorities shall adopt and implement equivalent requirements that are at least as stringent as those required by the applicable baseline federal standards, in addition to those required by state law.

(6) If the United States environmental protection agency no longer implements the prevention of significant deterioration program in accordance with the applicable baseline federal standards, then, where a regional air pollution control authority has not received authority to issue prevention of deterioration permits, the department shall immediately establish a state prevention of significant deterioration program to issue permits that are at least as stringent as the applicable baseline federal standards.

NEW SECTION. **Sec.**  (1) The legislature finds that chapter 90.48 RCW, water pollution control, chapter 90.56 RCW, oil and hazardous substance spill prevention and response, and chapter 88.46 RCW, vessel oil spill prevention and response are the state analogue to the federal water pollution control act, 33 U.S.C. Sec. 1251 et seq., also known as the federal clean water act.

(2) To ensure no backsliding as a result of any change in the federal clean water act, the department shall maintain and enforce all water quality standards that are at least as stringent as required by the applicable baseline federal standards, in addition to those required by state law.

(3) To the extent the department has not established a water quality standards or requirements for which a standard or requirement exists in the baseline federal standards, the department shall adopt the standard or requirement to be at least as stringent as the baseline federal standards.

(4) Waste disposal requirements and permits that are issued on or after January 1, 2018, must be at least as protective of the environment and comply with all applicable water quality standards, effluent limitations, and restrictions as required by the applicable federal baseline standards, in addition to those required by state law.

(5) A water quality clean-up plan adopted on or after January 1, 2018, must be at least as protective of the environment pursuant to, and in compliance with, all applicable water quality standards, effluent limitations, and restrictions as required by the applicable baseline federal standards, in addition to those required by state law.

(6) When a waste discharge requirement or water quality clean-up plan is renewed or amended, any water quality standards, effluent limitations, restrictions, and conditions must be at least as protective of the environment pursuant to, and in compliance with, all applicable water quality standards, effluent limitations, and restrictions as required by the applicable baseline federal standards, in addition to those required by state law.

NEW SECTION. **Sec.**  (1) The legislature finds that the state's drinking water quality control laws in chapter 70.119A RCW and RCW 43.20.050 are the state analogue to the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq.

(2) To ensure no backsliding as a result of any change in the federal safe drinking water act, the state board of health shall maintain and enforce all drinking water standards that are at least as stringent as required by the applicable baseline federal standards, in addition to those required by state law.

(3) To the extent that the state board of health has not established a drinking water standard or requirement for which a standard or requirement exists in the baseline federal standards, the board shall adopt the standard or requirement to be at least as stringent as the baseline federal standards.

(4) Drinking water system operating permits that are issued on or after January 1, 2018, must be at least as protective of public health and comply with all applicable drinking water standards, as required by the applicable baseline federal standards, in addition to those required by state law.

NEW SECTION. **Sec.**  (1) The department, each regional air pollution control authority, the board of health, and the attorney general shall undertake all feasible efforts using authority under state and federal law to implement and enforce sections 1 through 6 of this act.

(2) The department shall provide a report to the appropriate committees of the senate and house of representatives by December 1, 2018, and annually thereafter, that summarizes state and local actions to implement sections 1 through 6 of this act and that describes actions taken by the federal government that would weaken baseline federal standards that are applicable within the state of Washington.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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