

HOUSE BILL REPORT

ESHB 1554

As Passed House:

March 6, 2023

Title: An act relating to reducing public health and environmental impacts from lead.

Brief Description: Reducing public health and environmental impacts from lead.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Doglio, Pollet, Fitzgibbon, Berry, Ramel, Orwall, Ryu, Fosse, Kloba, Macri and Duerr).

Brief History:

Committee Activity:

Environment & Energy: 1/31/23, 2/14/23 [DPS];

Transportation: 2/20/23, 2/23/23 [DPS(ENVI)].

Floor Activity:

Passed House: 3/6/23, 67-28.

Brief Summary of Engrossed Substitute Bill

- Directs the Department of Transportation (WSDOT) to carry out certain activities related to reducing lead emissions and exposures associated with leaded aviation fuel use at airports.
- Directs the Department of Health to update its blood lead testing guidance for health care providers related to children leaving near airports at which aviation gasoline is used.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Doglio, Chair; Mena, Vice Chair; Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Abbarno, Barnard, Couture and Goehner.

Minority Report: Without recommendation. Signed by 1 member: Representative Ybarra, Assistant Ranking Minority Member.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill by Committee on Environment & Energy be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Fey, Chair; Donaghy, Vice Chair; Timmons, Vice Chair; Berry, Bronoske, Cortes, Doglio, Duerr, Entenman, Hackney, Mena, Ramel, Ramos, Taylor and Wylie.

Minority Report: Do not pass. Signed by 6 members: Representatives Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Orcutt, Schmidt, Volz and Walsh.

Minority Report: Without recommendation. Signed by 7 members: Representatives Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Chapman, Dent, Goehner, Griffey and Klicker.

Staff: Michael Hirsch (786-7195).

Background:

State Regulations and Programs Related to Lead.

State law restricts lead in various consumer products:

- Under the Children's Safe Products Act, lead is restricted in children's products at a level of 40 parts per million (ppm).
- Lead wheel weights must be replaced with environmentally preferred wheel weights whenever tires are replaced or rebalanced.
- Concentrations of lead, cadmium, mercury, and hexavalent chromium must not exceed a sum of 100 ppm in a package or packaging component.

Other state programs related to lead in the environment include provisions related to the recycling of lead-acid vehicle batteries, certification programs for persons performing lead-based paint abatement, and programs to limit the presence of lead in drinking water.

Leaded Gasoline.

Under the federal Clean Air Act (FCAA), leaded motor vehicle gasoline was phased out between the 1970s and 1990s. In October 2022 the United States Environmental Protection Agency (EPA) proposed an endangerment determination under the FCAA that would

identify emissions of lead that operate on leaded fuel as a contributor to air pollution in a manner that could endanger public health and welfare. This action was the first step in a regulatory process that could eventually lead to restrictions to lead in aviation gas under the FCAA. If the EPA finalizes its proposed endangerment finding, the EPA must then, under the FCAA, promulgate aircraft engine emission standards for lead, after undertaking a public process, and the Federal Aviation Administration (FAA) would be required to prescribe regulations to ensure compliance with these emissions standards, and to prescribe standards for aircraft fuel to control or eliminate lead emissions.

The FAA and industry partners have announced an Eliminate Aviation Gasoline Lead Emissions (EAGLE) initiative to eliminate the use of leaded aviation fuel by the end of 2030. Under the EAGLE initiative, the FAA has published recommendations related to short-term measures that airports may take to reduce or minimize potential exposures to aircraft lead emissions. However, the FAA policies also have the effect of requiring that airports continue to offer leaded aviation gas as a condition of grants made to federally obligated airports that receive such grants, unless the FAA approves a proposed restriction that is justified and not unreasonable or unjustly discriminatory. Under a 2018 federal budget proviso, the National Academies of Sciences, Engineering, and Medicine (NASEM) published a 2021 assessment of leaded aviation gasoline, including existing non-leaded fuel alternatives, ambient lead concentrations near airports where piston-powered general aviation aircraft are used, and mitigation measures to reduce ambient lead concentrations. The NASEM report included recommendations related to increasing the size of run-up areas used at general aviation airports, relocating run-up areas, and making other operational changes at airports to reduce lead exposures.

Department of Health Blood Lead Testing Guidance.

The Department of Health (DOH) recommends that healthcare providers screen children at 12 and 24 months of age to assess levels of lead in their blood, based on specified risk factors, including if a child lives in a house built before 1950, is known to have a sibling or frequent playmate with an elevated blood lead level, or has a parent or caregiver who works professionally or recreationally with lead. The DOH additionally recommends that healthcare providers consider blood lead testing on children per the healthcare provider's clinical judgment, based on factors including whether the child lives within a kilometer of an airport or lead emitting industry.

Summary of Engrossed Substitute Bill:

Lead Exposure Reduction Guidance and Plans.

The Department of Transportation (WSDOT), must carry out certain activities related to reducing emissions from leaded aviation gasoline used by piston-engine aircraft, including:

- carrying out an education and outreach campaign targeted to airport operators and piston-engine aircraft pilots on the topic of lead emissions from aircraft and the disposal of fuel samples;
- developing a bulletin, on consultation with the Federal Aviation Administration

- (FAA) and an airport managers association, to offer best practices to airport operators to build awareness related to the issue of lead emissions from piston-engine aircraft among airport users and neighboring communities;
- developing a communicating to the FAA a written recommendation to the FAA to update their circular on airport master plans to include evaluation of aircraft runup locations to limit lead exposures;
 - submitting a formal request to FAA and working with airport associations to prioritize eliminating leaded aviation gasoline emissions as part of FAA congressional reauthorization act processes; and
 - submitting recommendations to the appropriate committees of the Legislature by December, 2023 regarding financial incentives to be provided by the state for leaded aviation fuel reduction, and management strategies for airports and airport users to reduce lead emissions from piston-engine aircraft and reduce public health impacts from lead exposures.

The Department of Health (DOH) must update its blood lead testing guidance for health care providers related to children living near airports at which aviation gasoline is used. The update must include children at risk of lead exposure due to airport operations among the high-risk populations broadly recommended for a blood lead test. The DOH must provide outreach to healthcare providers about the updated guidance.

A severability clause is included.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Environment & Energy):

(In support) Lead is harmful to children. Lead has been phased out of most gasoline and many other products, but some aircraft continue to use leaded gasoline. Studies have shown elevated blood lead levels in populations living near airports with high volumes of airplanes that use leaded aviation gasoline. Aviation gasoline accounts for a significant portion of the airborne lead in King County. Airports are significant sources of lead. Areas near airports tend to be heavily burdened by a number of environmental harms, including noise pollution and other types of air pollution. The area surrounding King County International Airport is heavily comprised of people of color. Reducing lead in aviation gasoline is an equity issue. Persons living in areas near King County International Airport have a significantly shorter life expectancy than persons living in neighborhoods further from the airport. The federal government is beginning to address the issue of lead in aviation gasoline, but progress has been slow, and the state needs to supplement federal activity by taking its own lead reduction actions.

(Opposed) Everyone wants to see lead eliminated from aviation gasoline. However, the phase-out contemplated in this bill is premature relative to the status of efforts to move to unleaded aviation gasoline fuel, and the lack of availability of such fuel that can be used by aircraft that rely on leaded aviation gasoline. Phasing out leaded aviation gasoline and the approaches to reduce lead exposures from airports would create a financial and administrative burden on airports. Pilots would need to take risks in order to find the aviation gas that their planes need. Some ports are beginning to transition to unleaded gasoline, but it is not yet a solution for all aircraft that use Washington airports. Aircraft that use leaded aviation gas are needed for many socially beneficial purposes, including flights by the Washington State Patrol and humanitarian volunteer flights. Taxes on aviation fuel are not currently being spent by Washington on aviation uses, and could be re-directed to support lead reduction efforts.

(Other) The Departments of Ecology and Health support the intent of the bill to protect children from lead exposure. Reducing the harms caused by lead in aviation gasoline will require a number of different coordinated efforts. The costs to implement the leaded aviation gas phase-out and the development of lead exposure mitigation guidance are not in the Governor's budget. The Department of Transportation is concerned about the timing of the implementation of the phase-out of leaded aviation gasoline at Washington airports. Unleaded aviation gasoline is making inroads, but is not yet in widespread production. The Department of Transportation operates a plane that relies on leaded aviation gasoline.

Staff Summary of Public Testimony (Transportation):

(In support) This bill reduces the risk from leaded aviation fuel until we have an alternative. No level of lead is safe, especially for children. The move away from lead in paint and standard fuels has had good health effects, but lead is still in aviation fuel. Lead in aviation gasoline is the largest source of lead in the air. The bill adds pressure to encourage the adoption of alternatives that are available, but not at scale. This bill is important to communities impacted by the lead in aviation fuel. Trains are a better alternative than airplanes.

(Opposed) The presence of lead in aviation is better handled at the federal level to ensure compliance with FAA requirements. Unleaded fuels are becoming available including unleaded 100 octane aviation gasoline and we should not rush to using 94 unleaded. The move to unleaded fuels should be incentivized. Aviation gasoline is a relatively small portion of all gasoline sold. Some studies do not find evidence of lead near airports.

Airport managers do not have the authority to enforce compliance. Staff are available for airport planning, but not for monitoring castaway fuel. This bill creates an unfunded mandate on airports and does not enhance the Washington transportation system.

Many planes still need low lead fuel to fly. Airplane pilots do not operate on the ground for

longer than is necessary for safety purposes as aviation gasoline is expensive. The bill interferes with the authority of a pilot in command of an aircraft and is a large administrative burden with unreasonable rules. Federal Aviation Administration regulations were developed over 100 years to prioritize safety. This bill would decrease safety at airports. Ecology is not a suitable agency to control airport operations.

Persons Testifying (Environment & Energy): (In support) Representative Beth Doglio, prime sponsor; Christian Poulsen, Duwamish River Community Coalition; Lisa Rivera Smith; Velma Veloria; Sameth Mell and Holly Krejci, King County International Airport Community Coalition; Ali Lee; Brandon Bowersox-Johnson; Jeffry Berner; Shirlee Tan, Seattle and King County Public Health Department; Ursula Euler; and Tim Gould.

(Opposed) Brad Schuster, Aircraft Owners and Pilots Association; Warren Hendrickson and John Dobson, Washington State Aviation Alliance; Chris Herman, Washington Public Ports Association; and Stephen Ratzlaff, Friends of Boeing Field.

(Other) Holly Davies, Department of Health; Adam Eitmann, Department of Ecology; and Eric Johnson, Department of Transportation.

Persons Testifying (Transportation): (In support) Representative Beth Doglio, prime sponsor; Breck Lebegue, Washington Physicians for Social Responsibility; and Lisa Rivera Smith.

(Opposed) John Dobson, Washington State Aviation Alliance; Chris Herman, Washington Public Ports Association; Donald Goodman; Brad Schuster, Aircraft Owners and Pilots Association; Stephen Ratzlaff, Washington Seaplane Pilots Association; Mark Long, Blue Ribbon Farms Property Owners Association.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

Persons Signed In To Testify But Not Testifying (Transportation): (In support) Paula Sardinias.

(Opposed) Don Berger; Alan Burnett, Pacific Northwest Aviation Association; and Chad Mackay.

(Other) Robert Dengel, Washington State Department of Ecology.