

SENATE BILL REPORT

SB 5931

As of January 9, 2024

Title: An act relating to expediting the safer products for Washington process regarding motorized vehicle tires containing 6PPD.

Brief Description: Expediting the safer products for Washington process regarding motorized vehicle tires containing 6PPD.

Sponsors: Senators Salomon and Kauffman.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/09/24.

Brief Summary of Bill

- Designates 6PPD as a priority chemical and certain motor vehicle tires as priority consumer products under Safer Products for Washington.
- Requires the Department of Ecology to determine an initial set of regulatory actions regarding motor vehicle tires containing 6PPD by June 1, 2025, and adopt rules to implement such actions by June 1, 2026.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Matt Shepard-Koningsor (786-7627)

Background: 6PPD. 6PPD is used as an antioxidant, antiozonant, and polymer stabilizer for rubber products. Many vehicle tires contain 6PPD to prevent them from breaking down due to reactions with ozone and other compounds. When 6PPD reacts with ozone in the air, it forms 6PPD-quinone (6PPD-q). As tires wear down through contact with roads, 6PPD-q is released. Stormwater can transport 6PPD-q from roads into streams and other water bodies, which may expose aquatic organisms to the particles. Some scientific literature and studies link Coho salmon mortality to 6PPD-q in stormwater runoff following only limited

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exposure.

Safer Products for Washington. In 2019, the Legislature established an administrative process for the Department of Ecology (Ecology) to regulate priority chemicals in priority consumer products, referred to as Safer Products for Washington (SPWA). Under SPWA, certain chemicals were initially defined as priority chemicals, including Perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals), phthalates, phenolic compounds, PCBs, and certain flame retardants. Every five years, according to a specified schedule, Ecology, in consultation with the Department of Health, must report to the Legislature its decision to designate at least five priority chemicals meeting certain criteria.

Every five years, according to a specified schedule, Ecology must also:

- identify priority consumer products that include priority chemicals, taking into consideration specified criteria;
- determine regulatory actions for the priority chemicals contained in priority consumer products; and
- adopt rules implementing those regulatory actions.

Regulatory actions may include: (1) a determination that no action is needed; (2) require manufacturers to provide notice of the use of a priority chemical or class of priority chemicals; or (3) restrict or prohibit the manufacture, distribution, sale, or use of a priority chemical or class of priority chemicals in a consumer product. Chemical restrictions require that safer alternatives are feasible and available.

The designation of priority chemicals and priority consumer products, and the determination of regulatory actions, do not take effect until the adjournment of the regular session immediately following such designation or determination.

On May 31, 2023, Ecology adopted rules requiring manufacturers of consumer products to restrict or report on PFAS, ortho-phthalates, phenolic compounds, and certain flame retardants in specified priority consumer products. These rules took effect July 1, 2023, concluding the first cycle of SPWA. The first deadline of the second cycle of SPWA is June 1, 2024, by which Ecology must identify at least five additional priority chemicals. In June 2023, Ecology submitted a draft identification of priority chemicals to the Legislature, which identified seven new priority chemicals, including 6PPD. If the draft priority chemicals are included in the final report, due June 1, 2024, and not amended by the Legislature during the 2025 Legislative Session, the chemicals will become priority chemicals upon adjournment.

Other States. On October 1, 2023, California adopted a regulation listing motor vehicle tires containing 6PPD as a priority product under its safer consumer products law. By March 29, 2024, manufacturers have the option to submit a chemical or product removal notification, a chemical or product replacement notification, or a preliminary alternatives analysis report.

Summary of Bill: 6PPD. 6PPD is added to the list of priority chemicals in SPWA.

Safer Products for Washington. For the purposes of SPWA, a motorized vehicle tire containing 6PPD is a priority consumer product. For such products, Ecology must determine regulatory actions and adopt rules to implement those determinations consistent with the SPWA process but subject to the following timeline:

- by June 1, 2025, Ecology must determine an initial set of regulatory actions; and
- by June 1, 2026, Ecology must adopt rules to implement the initial set of regulatory actions.

Motorized vehicle tire includes, without limitation:

- a tire intended for use on light duty vehicles, motorcycles, motor homes, medium- and heavy-duty trucks, buses, and trailers; and
- tire tread material.

Motorized vehicle tire does not include:

- a tire imported into or sold in Washington as a component of a motorized vehicle; or
- the used components of a retreaded tire.

Ecology may further define "motorized vehicle tire" by rule.

Appropriation: None.

Fiscal Note: Requested on January 3, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The state is spending a lot of money on culverts and we do not want a situation where salmon get up stream and then die. We are working with Ecology to address their concerns with timelines, and to address tires attached to cars and those not attached. 6PPD is a recently discovered chemical contributing to an old problem, where 6PPD is the primary contributor to adult Coho salmon mortality. A lot of work is being done in this area. We broadly support reducing 6PPD in products and reducing the amount of 6PPD getting into our streams through roadways. A mitigation only approach likely cannot alleviate this problem.

CON: We are in support of an expedited review of 6PPD in tires, but we think the timeline in the bill would not advance an alternative for 6PPD but would create an administrative requirement diverting resources from this goal. 6PPD is a vital chemical used in tires to prevent degradation. Many tire manufacturers have formed a consortium to develop a safer alternatives analysis under California's requirements. We are focused on meeting California's deadline in March and providing Ecology information. Even if an alternative is

discovered and used, 6PPD will remain on the roads for many years because of existing tires. At this point, we would ask the committee to vote do not pass. An expedited process without alternatives could create safety concerns on the roads and increase cost to our fleets. Agencies should work to develop stormwater requirements instead.

OTHER: Identifying safer alternatives to 6PPD in tires is a high priority for Ecology, and we are dedicating significant time to this. Ecology has proposed 6PPD as a priority chemical in SPWA, which is the statute this bill amends. Ecology is concerned the abbreviated timelines could lead to some stakeholder confusion, unnecessary expense, and less than satisfactory results. There are also expenses not part of the Governor's budget. We will be working with the sponsor to address these issues.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Alexei Calambokidis, Trout Unlimited.

CON: Tracey Norberg, U.S. Tire Manufacturers Association; Cory Shaw, Washington Aggregates & Concrete Association.

OTHER: Kimberly Goetz, Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.