

SENATE BILL REPORT

SB 5326

AS OF JANUARY 30, 1991

Brief Description: Making major changes to air quality laws.

SPONSORS: Senators Patterson and Talmadge; by request of Governor Gardner.

SENATE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Staff: Gary Wilburn (786-7453)

Hearing Dates: January 30, 1991

BACKGROUND:

The Environment 2010 Report has identified ambient air pollution as Washington's greatest environmental quality threat. Washington currently has 13 areas which are designated as in non-attainment with federal air quality standards. Several other areas are suspected of not being in compliance, and other areas may soon exceed these standards due to population growth and other factors.

The Department of Ecology (Ecology) estimates that 3 million people in the state are regularly exposed to unhealthful air. Small sources, including automobiles, wood stoves, and fireplaces are becoming an increasingly significant source of air pollution. Ecology estimates total emissions can be attributed to sources as follows: Motor vehicles (43 percent); industrial sources (25 percent); wood stoves and fireplaces (20 percent); and outdoor burning (12 percent).

Existing air quality programs are administered by the Department of Ecology and, in many areas of the state, by local air pollution control authorities. New sources of air contaminants must provide a notice of construction, including plans which are reviewed and approved by Ecology or the applicable air authority. However, except for some modifications to existing sources, no further review may be undertaken to ensure the incorporation of new technology to reduce air pollutants.

The 1990 amendments to the federal Clean Air Act contain several requirements for state-administered air pollution programs. These include: tighter deadlines for meeting federal air quality standards; automatic imposition of measures and sanctions for failure to meet deadlines; expansion of automobile inspection and maintenance programs; air operating permits for industrial and commercial sources; installation of reasonably available control technology; minimum permit fees; transportation control measures in areas

seriously failing to meeting federal standards; and regulation of toxic air pollutants.

SUMMARY:

Findings and Intent: A finding is made that ambient air pollution is the most serious environmental threat in Washington State. The legislative intent is to protect public health, including the most sensitive members of the population, to preserve visibility, to protect scenic, aesthetic and cultural values, and to promote energy efficiency. A goal is adopted of returning areas of poor air quality to healthful levels no later than December 31, 1995.

A policy is adopted of sharing the costs of operating state and local air quality programs among all sources of air pollution. The Legislature recognizes that contributions from thousands of small sources such as automobiles and home heating devices are major contributors of air pollution in many regions of the state.

Vehicle Inspection and Maintenance Program: The repair waiver for failing an inspection following repairs for the purpose of meeting the emission standards is increased to \$450. Self-certification and inspection for fleet owners is expanded to include fleets of two or more vehicles. The inspection program is to be conducted in all areas in non-attainment under federal air quality standards. Inspections shall be conducted biennially and at each change of registered owner except where an annual program is required to prevent federal sanctions.

Diesel vehicles shall be included, except that the test for diesel vehicles over 14,000 pounds shall consist solely of a smoke opacity test. The fee for the initial inspection and one free reinspection is collected by the Department of Licensing when the vehicle license is issued or renewed. Fees for additional inspections are collected by the inspection station.

The legislative committees reviewing and approving boundary changes for inspection areas are to consider transportation control and emission reduction measures required by local governments to meet federal emission guidelines. State agencies outside inspection boundaries with fleets of 20 or more vehicles at a single facility must test their vehicles annually.

Alternative Fuels: The motor vehicle excise tax is waived for vehicles certified as "clean-fuel" vehicles by the U.S. Environmental Protection Agency (USEPA). The state is to purchase at least 30 percent of new vehicles in a weight class as clean-fuel vehicles where more than one manufacturer has been certified in that weight class. The percentage of purchases is to increase 5 percent every two years. State agencies and local governments are to purchase the "clean fuels" on which such vehicles may operate.

Ecology may develop alternative or additional clean fuel performance and emissions specifications, considering federal requirements, and include such specifications in invitations to bid for vehicle and fuel purchases. Matching grants from the air pollution control account may be made to local government to offset some costs of purchasing clean fuels and clean-fuel vehicles or for other programs to lower auto emissions.

Conformity of Transportation Plans and Projects: Transportation plans, programs and projects shall not be approved unless determined to be in conformity with the state air quality implementation plan. To be in conformity requires that the action not cause or contribute to new air quality violations, increase the frequency or severity of existing violations, or delay timely attainment of standards for an area. Additional criteria for conformity are set forth specific to plans and programs, and for projects.

Commute Trip Reduction Plans: By July 1, 1992, counties with populations of more than 225,000 and the cities within such counties shall adopt and implement commute trip reduction plans. Other counties and cities may adopt such plans at their option. The Department of Ecology may require local governments to adopt such plans if necessary to attain federal air quality standards.

The plans are to include goals for reducing single occupant commute trips. The goals are to be not less than a 10 percent reduction by 1995 and a 20 percent reduction by 1997. Annual progress reports are to be submitted to a commute trip reduction task force established by the State Energy Office. The task force with the assistance of a technical team is to develop guidelines for plans. A commute trip reduction plan for state agencies is to be developed by the Department of General Administration by July 1, 1992, and programs by larger agencies are to be developed to meet the trip reduction goals of the applicable local jurisdiction.

Within six months of a local government plan, each major employer within that jurisdiction is to submit a commute reduction program. Examples of implementation measures such as preferential parking and reduced parking charges for high occupancy vehicles, increased charges for single occupant vehicles, and transit fare subsidies are enumerated. The program and progress in its implementation must be reviewed and approved by the local government for its ability to meet the applicable trip reduction goals adopted by the local government.

Automobile Manufacturer Excise Tax: An excise tax is imposed upon the sale by manufacturers of new motor vehicles to dealers within the state. The tax is the sum of: (1) 0.37 percent of the purchase price; and (2) an amount calculated by the State Energy Office based upon total emissions relative to other vehicles in the same class using USEPA emissions estimates. The maximum tax under (2) is \$250 except for inflation adjustments. New motor vehicle dealers are to

provide information quarterly to the Department of Revenue on vehicles delivered to them for purposes of collecting the tax. Information on emissions and the tax is to be prominently displayed by dealers, and is published annually by the State Energy Office.

The excise tax revenues are deposited to the air pollution control account, which is created. Portions of moneys in the account may be distributed to local authorities for implementing motor vehicle related programs.

Industrial and Commercial Sources: Five-year renewable permits are required for the construction, modification and operation of air contaminant sources. Permits are required for the following sources: (1) where required by federal law; (2) for all new sources; and (3) where the source may cause or contribute to public health threats in areas exceeding or threatening to exceed air quality standards. Rules shall be established by July 1, 1992, which are to set forth the procedure and timetable for existing sources to obtain permits. Existing sources may operate under presently applicable standards until the permit is issued.

Best Available Control Technology (BACT) is required in permits for new and modified sources, and permits for existing sources must incorporate Best Available Retrofit Technology (BART). BART is defined as the maximum degree of reduction achievable, accounting for environmental, energy, and economic impacts. Permits are issued by the applicable local air authority, or, if none, by the Ecology Department.

A fee schedule for industrial and commercial sources shall be adopted by rule, based upon federal clean air requirements. The initial fee shall be \$25 per ton of annual permitted emissions, adjusted annually for inflation. Greater fees are allowed if necessary to cover permit program costs as determined by the federal law.

Sources not required to obtain permits but emitting more than ten tons of criteria pollutants or more than one ton of hazardous pollutants annually are required to develop emission reduction plans. Sources voluntarily installing BACT are exempt from planning.

Ecology shall prepare a study by July 1, 1992 of economic incentives for air pollution reduction. A technical assistance unit is to be formed to provide information to small businesses.

Penalties: Sources failing to obtain permits or submit emission reduction plans are subject to penalties. Maximum criminal penalties are increased to \$10,000 and one year in jail per violation. Maximum civil penalties are increased from \$1,000 to \$10,000 per day of noncompliance. State grants may be denied where proposed recipients violate air quality laws. Treble fees may be imposed where under-reporting of emissions for fee purposes has occurred.

Outdoor Burning: Outdoor burning is prohibited in areas exceeding state or federal air standards for pollutants emitted by outdoor burning. In specified urban areas threatening to exceed standards, outdoor burning is prohibited if alternative practices are reasonably available. Burning in such urban areas is completely prohibited after December 31, 2000.

Slash Burning: The Department of Natural Resources (DNR) is to administer a program to reduce prescribed forest burning so as to achieve a minimum reduction of 20 percent by 1994 and 50 percent by the year 2000, using as the base an average of levels between 1985 and 1990. DNR is to develop a plan within 12 months for carrying out the program, and is to seek the participation of the United States as to forests under federal management.

DNR shall use its authority to immediately limit emissions if the 1994 targets are not achieved, so as to achieve the year 2000 target levels. DNR shall adopt rules assessing fees for silvicultural burning to be collected at the time of permit issuance. The fees shall be set at levels to cover the costs of permit program administration and conducting research into burning alternatives. Alternative slash disposal methods are to be aggressively encouraged by DNR with burning as the lowest priority. Slash burning is prohibited in areas under a declared impaired air quality stage.

Agricultural Burning: Ecology and local air authorities are to collect permit fees for agricultural and weed abatement activities at levels necessary to cover program administration and for conducting research into alternatives to burning. Education material is to be developed by conservation districts and they are to provide technical assistance for alternatives to burning. Ecology may delegate permit issuance and enforcement to conservation districts. Agricultural burning is prohibited during an impaired air quality condition or air pollution episode.

Wood Stoves and Fireplaces: Progressively tighter emissions standards are adopted for the sale of new wood stoves in 1995 and 2000. Additionally, stricter opacity levels for enforcement purposes are adopted for wood stoves and fireplaces. The fee on new wood stove sales is increased from \$15 to \$30, and may be further increased to adjust for inflation.

Global Warming and Ozone Depletion: Persons repairing air conditioning, heating or refrigeration systems or consumer appliances shall recover refrigerants associated with ozone depletion and listed in the 1990 federal Clean Air Act. Certain consumer products containing such refrigerants or other ozone-depleting chemicals are prohibited from sale. The Department of Ecology shall adopt rules to implement these restrictions.

Water Quality Account: Beginning in fiscal year 1992, funds are to be transferred from the air pollution control account

to the water quality account in an amount sufficient to bring the total receipts to the latter account up to \$45 million.

Miscellaneous Sections: Technical changes are made regarding the operation of local air pollution control authorities. Modifications are made to the board composition of authorities comprising two or more counties. Board members are to declare potential conflicts of interest in an action and not participate where the member could not conduct a fair and objective review. Each activated authority is to adopt a full-time control officer to enforce air pollution requirements.

Several provisions of existing law are repealed. Those affecting policy are described above.

Appropriation: none

Revenue: yes

Fiscal Note: requested January 25, 1991

Effective Date: The bill contains an emergency clause and takes effect immediately, except that sections 221-228 take effect July 1, 1991; sections 602 and 604 take effect July 1, 1992, and January 1, 1992, respectively.