
SENATE BILL 6421

State of Washington

52nd Legislature

1992 Regular Session

By Senator Metcalf

Read first time 01/29/92. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to hazardous waste management; and amending RCW
2 70.105.005, 70.105.007, 70.105.010, and 70.105.150.

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

4 **Sec. 1.** RCW 70.105.005 and 1985 c 448 s 2 are each amended to read
5 as follows:

6 The legislature hereby finds and declares:

7 (1) The health and welfare of the people of the state depend on
8 clean and pure environmental resources unaffected by hazardous waste
9 contamination. At the same time, the quality of life of the people of
10 the state is in part based upon a large variety of goods produced by
11 the economy of the state. The complex industrial processes that
12 produce these goods also generate waste byproducts, some of which are
13 hazardous to the public health and the environment if improperly
14 managed.

1 (2) Safe and responsible management of hazardous waste is necessary
2 to prevent adverse effects on the environment and to protect public
3 health and safety.

4 (3) The availability of safe, effective, economical, and
5 environmentally sound facilities for the management of hazardous waste
6 is essential to protect public health and the environment and to
7 preserve the economic strength of the state.

8 (4) Strong and effective enforcement of federal and state hazardous
9 waste laws and regulations is essential to protect the public health
10 and the environment and to meet the public's concerns regarding the
11 acceptance of needed new hazardous waste management facilities.

12 (5) Negotiation, mediation, and similar conflict resolution
13 techniques are useful in resolving concerns over the local impacts of
14 siting hazardous waste management facilities.

15 (6) Safe and responsible management of hazardous waste requires an
16 effective planning process that involves local and state governments,
17 the public, and industry.

18 (7) Public acceptance and successful siting of needed new hazardous
19 waste management facilities depends on several factors, including:

20 (a) Public confidence in the safety of the facilities;

21 (b) Assurance that the hazardous waste management priorities
22 established in this chapter are being carried out to the maximum degree
23 practical;

24 (c) Recognition that all state citizens benefit from certain
25 products whose manufacture results in the generation of hazardous
26 byproducts, and that all state citizens must, therefore, share in the
27 responsibility for finding safe and effective means to manage this
28 hazardous waste; and

1 (d) Provision of adequate opportunities for citizens to meet with
2 facility operators and resolve concerns about local hazardous waste
3 management facilities.

4 (8) Due to the controversial and regional nature of facilities for
5 the disposal and incineration of hazardous waste, the facilities have
6 had difficulty in obtaining necessary local approvals. The legislature
7 finds that there is a state-wide interest in assuring that such
8 facilities can be sited.

9 It is therefore the intent of the legislature to preempt local
10 government's authority to approve, deny, or otherwise regulate disposal
11 and incineration facilities, and to vest in the department of ecology
12 the sole authority among state, regional, and local agencies to
13 approve, deny, and regulate preempted facilities, as defined in this
14 chapter.

15 In addition, it is the intent of the legislature that such complete
16 preemptive authority also be vested in the department for treatment and
17 storage facilities, in addition to disposal and incineration
18 facilities, if a local government fails to carry out its
19 responsibilities established in RCW 70.105.225.

20 It is further the intent of the legislature that no local
21 ordinance, permit requirement, other requirement, or decision shall
22 prohibit on the basis of land use considerations the construction of a
23 hazardous waste management facility within any zone designated and
24 approved in accordance with this chapter, provided that the proposed
25 site for the facility is consistent with applicable state siting
26 criteria.

27 (9) With the exception of the disposal site authorized for
28 acquisition under this chapter, the private sector has had the primary
29 role in providing hazardous waste management facilities and services in
30 the state. It is the intent of the legislature that this role be

1 encouraged and continue into the future to the extent feasible.
2 Whether privately or publicly owned and operated, hazardous waste
3 management facilities and services should be subject to ~~((strict))~~
4 governmental regulation ~~((as provided under this chapter))~~ that is
5 effective to accomplish the goals of subsections (1), (2), and (3) of
6 this section and RCW 70.105.215.

7 (10) Wastes that are exempt or excluded from full regulation under
8 this chapter due to their small quantity or household origin have the
9 potential to pose significant risk to public health and the environment
10 if not properly managed. It is the intent of the legislature that the
11 specific risks posed by such waste be investigated and assessed and
12 that programs be carried out as necessary to manage the waste
13 appropriately. In addition, the legislature finds that, because local
14 conditions vary substantially in regard to the quantities, risks, and
15 management opportunities available for such wastes, local government is
16 the appropriate level of government to plan for and carry out programs
17 to manage moderate-risk waste, with assistance and coordination
18 provided by the department.

19 **Sec. 2.** RCW 70.105.007 and 1985 c 448 s 3 are each amended to read
20 as follows:

21 The purpose of this chapter is to establish a comprehensive state-
22 wide framework for the planning, regulation, control, and management of
23 hazardous waste which will prevent land, air, and water pollution and
24 conserve the natural, economic, and energy resources of the state. To
25 this end it is the purpose of this chapter:

26 (1) To provide broad powers of regulation to the department of
27 ecology relating to management of hazardous wastes and releases of
28 hazardous substances, except that regulations that thwart or tend to

1 thwart the goals of RCW 70.105.005 (1), (2), and (3), and 70.105.215
2 are invalid and unenforceable;

3 (2) To promote waste reduction and to encourage other improvements
4 in waste management practices;

5 (3) To promote cooperation between state and local governments by
6 assigning responsibilities for planning for hazardous wastes to the
7 state and planning for moderate-risk waste to local government;

8 (4) To provide for prevention of problems related to improper
9 management of hazardous substances before such problems occur; and

10 (5) To assure that needed hazardous waste management facilities may
11 be sited in the state, and to ensure the safe operation of the
12 facilities.

13 **Sec. 3.** RCW 70.105.010 and 1989 c 376 s 1 are each amended to read
14 as follows:

15 The words and phrases defined in this section shall have the
16 meanings indicated when used in this chapter unless the context clearly
17 requires otherwise.

18 (1) "Department" means the department of ecology.

19 (2) "Director" means the director of the department of ecology or
20 the director's designee.

21 (3) "Disposal site" means a geographical site in or upon which
22 hazardous wastes are disposed of in accordance with the provisions of
23 this chapter.

24 (4) "Dispose or disposal" means the discarding or abandoning of
25 hazardous wastes (~~(or the treatment, decontamination, or recycling of~~
26 ~~such wastes once they have been discarded or abandoned)~~).

27 (5) "Dangerous wastes" means any discarded, useless, unwanted, or
28 abandoned substances, including but not limited to certain pesticides,
29 or any residues or containers of such substances which are disposed of

1 in such quantity or concentration as to pose a substantial present or
2 potential hazard to human health, wildlife, or the environment because
3 such wastes or constituents or combinations of such wastes:

4 (a) Have short-lived, toxic properties that may cause death,
5 injury, or illness or have mutagenic, teratogenic, or carcinogenic
6 properties; or

7 (b) Are corrosive, explosive, flammable, or may generate pressure
8 through decomposition or other means.

9 (6) "Extremely hazardous waste" means any dangerous waste which

10 (a) will persist in a hazardous form for several years or more at
11 a disposal site and which in its persistent form

12 (i) presents a significant environmental hazard and may be
13 concentrated by living organisms through a food chain or may affect the
14 genetic make-up of man or wildlife, and

15 (ii) is highly toxic to man or wildlife

16 (b) if disposed of at a disposal site in such quantities as would
17 present an extreme hazard to man or the environment.

18 (7) "Person" means any person, firm, association, county, public or
19 municipal or private corporation, agency, or other entity whatsoever.

20 (8) "Pesticide" shall have the meaning of the term as defined in
21 RCW 15.58.030 as now or hereafter amended.

22 (9) "Solid waste advisory committee" means the same advisory
23 committee as per RCW 70.95.040 through 70.95.070.

24 (10) "Designated zone facility" means any facility that requires an
25 interim or final status permit under rules adopted under this chapter
26 and that is not a preempted facility as defined in this section.

27 (11) "Facility" means all contiguous land and structures, other
28 appurtenances, and improvements on the land used for recycling,
29 storing, treating, incinerating, or disposing of hazardous waste.

1 (12) "Preempted facility" means any facility that includes as a
2 significant part of its activities any of the following operations:
3 (a) Landfill, (b) incineration, (c) land treatment, (d) surface
4 impoundment to be closed as a landfill, or (e) waste pile to be closed
5 as a landfill.

6 (13) "Hazardous household substances" means those substances
7 identified by the department as hazardous household substances in the
8 guidelines developed under RCW 70.105.220.

9 (14) "Hazardous substances" means any liquid, solid, gas, or
10 sludge, including any material, substance, product, commodity, or
11 waste, regardless of quantity, that exhibits any of the characteristics
12 or criteria of hazardous waste as described in rules adopted under this
13 chapter.

14 (15) "Hazardous waste" means and includes all dangerous and
15 extremely hazardous waste, including substances composed of both
16 radioactive and hazardous components.

17 (16) "Local government" means a city, town, or county.

18 (17) "Moderate-risk waste" means (a) any waste that exhibits any of
19 the properties of hazardous waste but is exempt from regulation under
20 this chapter solely because the waste is generated in quantities below
21 the threshold for regulation, and (b) any household wastes which are
22 generated from the disposal of substances identified by the department
23 as hazardous household substances.

24 (18) "Service charge" means an assessment imposed under RCW
25 70.105.280 against those facilities that store, treat, incinerate, or
26 dispose of dangerous or extremely hazardous waste that contains both a
27 nonradioactive hazardous component and a radioactive component.
28 Service charges shall also apply to facilities undergoing closure under
29 this chapter in those instances where closure entails the physical
30 characterization of remaining wastes which contain both a

1 nonradioactive hazardous component and a radioactive component or the
2 management of such wastes through treatment or removal, except any
3 commercial low-level radioactive waste facility.

4 **Sec. 4.** RCW 70.105.150 and 1983 1st ex.s. c 70 s 1 are each
5 amended to read as follows:

6 The legislature hereby declares that:

7 (1) The health and welfare of the people of the state depend on
8 clean and pure environmental resources unaffected by hazardous waste
9 contamination. Management and regulation of hazardous waste disposal
10 should encourage practices which result in the least amount of waste
11 being produced. Towards that end, the legislature finds that the
12 following priorities in the management of hazardous waste are necessary
13 and should be followed in order of descending priority as applicable:

14 (a) Waste reduction;

15 (b) Waste recycling;

16 (c) Physical, chemical, and biological treatment;

17 (d) Incineration;

18 (e) Solidification/stabilization treatment;

19 (f) Landfill.

20 (2) As used in this section:

21 (a) "Waste reduction" means reducing waste so that hazardous
22 byproducts are not produced;

23 (b) "Waste recycling" means reusing waste materials and extracting
24 valuable materials from a waste stream;

25 (c) "Physical, chemical, and biological treatment" means processing
26 the waste to render it completely innocuous, produce a recyclable
27 byproduct, reduce toxicity, or substantially reduce the volume of
28 material requiring disposal. When a waste has been processed so that
29 it is completely innocuous or has been processed to a recyclable

1 product, it ceases to be under the management control of the
2 department;

3 (d) "Incineration" means reducing the volume or toxicity of wastes
4 by use of an enclosed device using controlled flame combustion;

5 (e) "Solidification/stabilization treatment" means the use of
6 encapsulation techniques to solidify wastes and make them less
7 permeable or leachable; and

8 (f) "Landfill" means a disposal facility, or part of a facility, at
9 which waste is placed in or on land and which is not a land treatment
10 facility, surface impoundment, or injection well.