
HOUSE BILL 1597

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Rust, Horn, Flemming and J. Kohl

Read first time 02/03/93. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to correction of the model toxics control act to
2 confirm the availability of a private right of action or right of
3 contribution; adding a new section to chapter 70.105D RCW; and
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.105D
7 RCW to read as follows:

8 Except as provided in RCW 70.105D.040(4)(d), a person may bring a
9 private right of action, including a claim for contribution or for
10 declaratory relief, against another person liable under RCW 70.105D.040
11 for the recovery of remedial action costs. Natural resource damages
12 paid to the state under this chapter may also be recovered in the
13 action. Recovery shall be based on such equitable factors as the court
14 determines are appropriate and may include the prevailing party's
15 reasonable attorneys' fees. Recovery of remedial action costs shall be
16 limited to those remedial actions that, when evaluated as a whole, are
17 the substantial equivalent of a department-conducted or department-
18 supervised remedial action. Substantial equivalence shall be
19 determined by the court with reference to the rules adopted by the

1 department under this chapter. An action under this section may be
2 brought after remedial action costs are incurred but must be brought
3 within three years from the date remedial action confirms cleanup
4 standards are met or within one year of the effective date of this
5 section, whichever is later. The right of action created by this
6 section is retroactive.

7 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and shall take
10 effect immediately.

11 NEW SECTION. **Sec. 3.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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