

HOUSE BILL REPORT

HB 1810

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to the authority of the state for cleanup standards under the model toxics control act.

Brief Description: Changing the scope of cleanup standards for remedial actions under the model toxics control act.

Sponsors: Representatives Chandler, Honeyford, Thompson and L. Thomas.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/23/95, 3/1/95 [DPS];
Appropriations: 3/3/95 [DPS(AG)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Kremen; Poulsen; Regala; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 2 members: Representatives R. Fisher and Rust.

Staff: Rick Anderson (786-7114).

Background: The Model Toxics Control Act (MTCA), adopted through the initiative process in 1987, does not establish specific hazardous waste cleanup standards. Instead, it directs the Department of Ecology (Ecology) to establish and periodically update cleanup standards, which must be "at least as stringent" as the cleanup standards under the federal Superfund law and all other "applicable" federal and state laws, including health-based standards.

In 1991, the department adopted rules establishing general cleanup standards and methods to establish cleanup standards for specific sites. In general, the rules provide three basic methods (A, B, and C) for determining the level of cleanup at a site.

Method A establishes specific numeric cleanup standards for 25 specific contaminants. This method is used for sites that have only a few types of contaminants, and then only for sites with contaminants for which standards have been set. Method B provides a standard method for determining cleanup levels for ground water, surface water, soil, and air that is based on a site specific risk assessment. The risk assessment uses a number of assumptions that are determined by the department. Examples of these assumptions include: how much contaminant could be ingested; toxicity of the contaminant, body weight of the person ingesting a contaminant, how much risk is acceptable, etc. Method C provides a "conditional" method involving site-specific risk assessment and is used when Methods A and B may be impossible to implement or may cause greater environmental harm. Method C is similar to Method B in that it allows a site specific risk assessment. Unlike method B, method C assumes that "acceptable risk" for cancer causing substances is one in 100,000. Method B uses an acceptable risk assumption of one in one million.

In 1991, Ecology adopted rules to establish soil cleanup standards for industrial sites. The rules allowed these industrial sites to use less stringent cleanup standards if institutional controls are used (i.e. keeping the land in industrial use, fences, etc.). The rules specified the standards could be used only at large industrial areas. Legislation enacted in 1994 broadened the scope of when the industrial soil cleanup standards could be used. The department is currently writing rules to implement this legislation.

Summary of Substitute Bill: A legislative task force is created to review the model toxics control act and the cleanup standards adopted by the Department of Ecology. The purpose of the review is to evaluate whether or not the cleanup process can be enhanced, simplified, and made more cost effective. The task force is to consist of four legislators and one member representing each of the following groups: the science advisory board, small business, large industry, cities, counties, and an environmental organization. The Department of Ecology is to be a non-voting ex-officio member. By December 31, 1995, the task force is to report to the Legislature on 16 issues relating to hazardous waste cleanups. Provisions for reimbursing task force members are specified.

The Department of Ecology is directed to undertake three to five pilot projects on large industrial sites to determine if the cleanup process can be improved. The sites chosen for the pilot project must have a potential cleanup cost exceeding \$5 million and meet certain other requirements. The department is to apply alternative cleanup standards and remedial actions on these sites, based in part on risk assessment information prepared by the potentially liable parties. The project managers from the

department and the lead potentially liable party must submit interim and final reports on the progress of the pilot projects. The final report is due to the legislative task force by December 1, 1995. The legislative task force must evaluate the progress of the pilot cleanup projects and recommend the need for any further legislation or change in the department's cleanup rules.

Substitute Bill Compared to Original Bill: The original bill indirectly changed hazardous waste cleanup standards by directing the Department of Ecology to establish cleanup standards based on new statutory criteria. The substitute bill creates a legislative task force and three to five pilot projects to evaluate whether or not the hazardous waste cleanup process can be expedited.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The hazardous waste cleanup process is broken. The costs of these cleanups are too high. As a result, past industrial areas are being vacated and new industrial development is moving to previously unindustrialized "greenfields." Hazardous waste cleanups result in eliminating one premature death per every \$4.5 billion spent by industry. Hazardous waste sites represent the same risk to people as do stairs. In an era of scarce resources, money can be better spent to protect public health.

Testimony Against: Do not let the lawyers of the potential liable parties negotiate their own cleanup standards. Their interests will win out over citizen's interests every time. The state's hazardous waste program is working. Hundreds of cleanups have occurred in this state. The cleanup process is slow because of delays by the potentially liable parties. The health of the community is more important than the extra dollars spent by the potentially liable parties.

Testified: Randy Lewis, City of Tacoma (pro); Victoria Chiechi, Washington Refuse and Recycle Association (pro); Marcia Newlands, Heller Ehrman (pro); Don Chance, Association of Washington Business (pro); Naki Stevens, People for Puget Sound (con); Doris Cellarius, Sierra Club (con); Philip Johnson, (con); and Laurie Valeriano, Washington Toxics Coalition (con).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Cooke; Crouse; G. Fisher; Foreman; Grant; Lambert; Lisk; McMorris; Poulsen; Reams; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 7 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Jacobsen; Rust; Thibaudeau and Wolfe.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: We are looking for better ways to clean up hazardous waste sites. It makes more sense for industries to locate in industrial areas rather than moving to previously unindustrialized "greenfields."

Testimony Against: None.

Testified: Representative Gary Chandler, prime sponsor.