

ESSB 5788 - H COMM AMD

By Committee on Natural Resources, Ecology & Parks

ADOPTED AS AMENDED 04/13/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
4 improve recycling, eliminate illegal disposal of recyclable materials,
5 protect consumers from sham recycling, and to further the purposes of
6 RCW 70.95.020 and the goal of consistency in jurisdictional treatment
7 of the statewide solid waste management plan adopted by the department
8 of ecology.

9 **Sec. 2.** RCW 70.95.020 and 1998 c 156 s 1 and 1998 c 90 s 1 are
10 each reenacted and amended to read as follows:

11 The purpose of this chapter is to establish a comprehensive
12 statewide program for solid waste handling, and solid waste recovery
13 and/or recycling which will prevent land, air, and water pollution and
14 conserve the natural, economic, and energy resources of this state. To
15 this end it is the purpose of this chapter:

16 (1) To assign primary responsibility for adequate solid waste
17 handling to local government, reserving to the state, however, those
18 functions necessary to assure effective programs throughout the state;

19 (2) To provide for adequate planning for solid waste handling by
20 local government;

21 (3) To provide for the adoption and enforcement of basic minimum
22 performance standards for solid waste handling, including that all
23 sites where recyclable materials are generated and transported from
24 shall provide a separate container for solid waste;

25 (4) To encourage the development and operation of waste recycling
26 facilities needed to accomplish the management priority of waste
27 recycling, (~~and~~) to promote consistency in the requirements for such
28 facilities throughout the state, and to ensure that recyclable

1 materials diverted from the waste stream for recycling are routed to
2 facilities in which recycling occurs;

3 (5) To provide technical and financial assistance to local
4 governments in the planning, development, and conduct of solid waste
5 handling programs;

6 (6) To encourage storage, proper disposal, and recycling of
7 discarded vehicle tires and to stimulate private recycling programs
8 throughout the state; and

9 (7) To encourage the development and operation of waste recycling
10 facilities and activities needed to accomplish the management priority
11 of waste recycling and to promote consistency in the permitting
12 requirements for such facilities and activities throughout the state.

13 It is the intent of the legislature that local governments be
14 encouraged to use the expertise of private industry and to contract
15 with private industry to the fullest extent possible to carry out solid
16 waste recovery and/or recycling programs.

17 **Sec. 3.** RCW 70.95.305 and 1998 c 156 s 5 are each amended to read
18 as follows:

19 (1) Notwithstanding any other provision of this chapter, the
20 department may by rule exempt from the requirements to obtain a solid
21 waste handling permit any category of solid waste handling facility
22 that it determines to:

- 23 (a) Present little or no environmental risk; and
- 24 (b) Meet the environmental protection and performance requirements
25 required for other similar solid waste facilities.

26 (2) This section does not apply to any facility or category of
27 facilities that:

- 28 (a) Receives municipal solid waste destined for final disposal,
29 including but not limited to transfer stations, landfills, and
30 incinerators;
- 31 (b) Applies putrescible solid waste on land for final disposal
32 purposes;
- 33 (c) Handles mixed solid wastes that have not been processed to
34 segregate solid waste materials destined for disposal from other solid
35 waste materials destined for a beneficial use or recycling;
- 36 (d) Receives or processes organic waste materials into compost in

1 volumes that generally far exceed those handled by municipal park
2 departments, master gardening programs, and households; or

3 (e) Receives solid waste destined for recycling or reuse, the
4 operation of which is determined by the department to present risks to
5 human health and the environment.

6 (3) Rules adopted under this section shall contain such terms and
7 conditions as the department deems necessary to ensure compliance with
8 applicable statutes and rules. If a facility does not operate in
9 compliance with the terms and conditions established for an exemption
10 under subsection (1) of this section, the facility is subject to the
11 permitting requirements for solid waste handling under this chapter.

12 (4) This section shall not be deemed to invalidate the exemptions
13 or determinations of nonapplicability in the department's solid waste
14 rules as they exist on June 11, 1998, which exemptions and
15 determinations are recognized and confirmed subject to the department's
16 continuing authority to modify or revoke those exemptions or
17 determinations by rule.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.95 RCW
19 to read as follows:

20 (1) For the purposes of this section and section 5 of this act,
21 "transporter" means any person or entity that transports recyclable
22 materials from commercial or industrial generators over the public
23 highways of the state of Washington for compensation, and who are
24 required to possess a permit to operate from the Washington utilities
25 and transportation commission under chapter 81.80 RCW. "Transporter"
26 includes commercial recycling operations of certificated solid waste
27 collection companies as provided in chapter 81.77 RCW. "Transporter"
28 does not include:

29 (a) Carriers of commercial recyclable materials, when such
30 materials are owned or being bought or sold by the entity or person,
31 and being carried in their own vehicle, when such activity is
32 incidental to the conduct of an entity or person's primary business;

33 (b) Entities or persons hauling their own recyclables or hauling
34 recyclables they generated or purchased and transported in their own
35 vehicles;

36 (c) Nonprofit or charitable organizations collecting and

1 transporting recyclable materials from a buyback center, drop box, or
2 from a commercial or industrial generator of recyclable materials;

3 (d) City municipal solid waste departments or city solid waste
4 contractors; or

5 (e) Common carriers under chapter 81.80 RCW whose primary business
6 is not the transportation of recyclable materials.

7 (2) All transporters shall register with the department prior to
8 the transportation of recyclable materials. The department shall
9 supply forms for registration.

10 (3) A transporter who transports recyclable materials within the
11 state without a transporter registration required by this section is
12 subject to a civil penalty in an amount up to one thousand dollars per
13 violation.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.95 RCW
15 to read as follows:

16 (1) A transporter may not deliver any recyclable materials for
17 disposal to a transfer station or landfill.

18 (2) A transporter shall keep records of locations and quantities
19 specifically identified in relation to a generator's name, service
20 date, address, and invoice, documenting where recyclables have been
21 sold, delivered for processing, or otherwise marketed. These records
22 must be retained for two years from the date of collection, and must be
23 made accessible for inspection by the department and the local health
24 department.

25 (3) A transporter who violates the provisions of this section is
26 subject to a civil penalty of up to one thousand dollars per violation.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95 RCW
28 to read as follows:

29 Any person damaged by a violation of sections 4 through 8 of this
30 act may bring a civil action for such a violation by seeking either
31 injunctive relief or damages, or both, in the superior court of the
32 county in which the violation took place or in Thurston county. The
33 prevailing party in such an action is entitled to reasonable costs and
34 attorneys' fees, including those on appeal.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.95 RCW
2 to read as follows:

3 (1) All facilities that recycle solid waste, except for those
4 facilities with a current solid waste handling permit issued under RCW
5 70.95.170, must notify the department in writing within thirty days
6 prior to operation, or ninety days from the effective date of this
7 section for existing recycling operations, of the intent to conduct
8 recycling in accordance with this section. Notification must be in
9 writing, and include:

10 (a) Contact information for the person conducting the recycling
11 activity;

12 (b) A general description of the recycling activity;

13 (c) A description of the types of solid waste being recycled; and

14 (d) A general explanation of the recycling processes and methods.

15 (2) Each facility that recycles solid waste, except those
16 facilities with a current solid waste handling permit issued under RCW
17 70.95.170, shall prepare and submit an annual report to the department
18 by April 1st on forms supplied by the department. The annual report
19 must detail recycling activities during the previous calendar year and
20 include the following information:

21 (a) The name and address of the recycling operation;

22 (b) The calendar year covered by the report;

23 (c) The annual quantities and types of waste received, recycled,
24 and disposed, in tons, for purposes of determining progress towards
25 achieving the goals of waste reduction, waste recycling, and treatment
26 in accordance with RCW 70.95.010(4); and

27 (d) Any additional information required by written notification of
28 the department that is needed to determine progress towards achieving
29 the goals of waste reduction, waste recycling, and treatment in
30 accordance with RCW 70.95.010(4).

31 (3) Any facility, except for product take-back centers, that
32 recycles solid waste materials within the state without first obtaining
33 a solid waste handling permit under RCW 70.95.170 or completing a
34 notification under this section is subject to a civil penalty of up to
35 one thousand dollars per violation.

36 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.95 RCW
37 to read as follows:

1 (1) The department may adopt rules that establish financial
2 assurance requirements for recycling facilities that do not already
3 have financial assurance requirements under this chapter, or are not
4 already specifically exempted from financial assurance requirements
5 under this chapter. The financial assurance requirements must take
6 into consideration the amounts and types of recyclable materials
7 recycled at the facility, and the potential closure and postclosure
8 costs associated with the recycling facility; which assurance may
9 consist of posting of a surety bond in an amount sufficient to meet
10 these requirements or other financial instrument, but in no case less
11 than ten thousand dollars.

12 (2) A recycling facility is required to meet financial assurance
13 requirements adopted by the department by rule, unless the facility is
14 already required to provide financial assurance under other provisions
15 of this chapter.

16 (3) Facilities that collect, recover, process, or otherwise recycle
17 scrap metal, processed scrap metal, unprocessed home scrap metal, and
18 unprocessed prompt scrap metal are exempt from the requirements of this
19 section.

20 NEW SECTION. **Sec. 9.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected."

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