

SSB 6620 - H COMM AMD

By Select Committee on Environmental Health

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that discharges from
4 failing on-site sewage systems are a serious cause of pollution in
5 Washington's waterways, including Hood Canal, and a continuing threat
6 to public health and the shellfish industry. The financial cost for
7 many homeowners to fix failing or outdated on-site sewage systems may
8 be prohibitive.

9 The legislature recognizes new technologies may have the potential
10 to assist homeowners who wish to repair or upgrade their on-site sewage
11 disposal systems. However, regulatory barriers may inhibit homeowner's
12 access to these new technologies.

13 It is the intent of the legislature to assist homeowners to
14 voluntarily upgrade or repair their failing on-site sewage disposal
15 systems by removing regulatory barriers to access of new technologies
16 for on-site sewage systems.

17 **Sec. 2.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read
18 as follows:

19 (~~As used~~) The definitions in this section apply throughout this
20 chapter(~~(, the terms defined in this section shall have the meanings~~
21 ~~indicated)) unless the context clearly (~~indicates~~) requires
22 otherwise.~~

23 (1) "Nonwater-carried sewage disposal devices" means any device
24 that stores and treats nonwater-carried human urine and feces.

25 (2) "Alternative methods of effluent disposal" means systems
26 approved by the department (~~of health~~), including at least, mound
27 systems, alternating drainfields, anaerobic filters, evapotranspiration
28 systems, and aerobic systems.

1 (3) "Failure" means: (a) Effluent has been discharged on the
2 surface of the ground prior to approved treatment; or (b) effluent has
3 percolated to the surface of the ground; or (c) effluent has
4 contaminated or threatens to contaminate a groundwater supply.

5 (4) "Additive" means any commercial product intended to affect the
6 performance or aesthetics of an on-site sewage disposal system.

7 (5) "Department" means the department of health.

8 (6) "On-site sewage disposal system" means any system of piping,
9 treatment devices, or other facilities that convey, store, treat, or
10 dispose of sewage on the property where it originates or on nearby
11 property under the control of the user where the system is not
12 connected to a public sewer system. For purposes of this chapter, an
13 on-site sewage disposal system does not include indoor plumbing and
14 associated fixtures.

15 (7) "Chemical additive" means those additives containing acids,
16 bases, or other chemicals deemed unsafe by the department for use in an
17 on-site sewage disposal system.

18 (8) "Additive manufacturer" means any person who manufactures,
19 formulates, blends, packages, or repackages an additive product for
20 sale, use, or distribution within the state.

21 (9) "Repair" means relocation, replacement, or reconstruction of a
22 failed on-site sewage disposal system.

23 (10) "Biological remediation" includes: (a) A process that uses
24 microorganisms to return a contaminated environment, including a
25 drainfield or soil dispersal component, to a state of nonfailure; or
26 (b) a process that uses microorganisms to sufficiently increase the
27 infiltration rate through and into the soil below the infiltrative
28 surface of a clogged infiltrative surface on-site sewage disposal
29 system.

30 NEW SECTION. Sec. 3. (1) Manufacturers of biological remediation
31 technologies for use in the recovery of failed drainfields of on-site
32 sewage disposal systems must provide documentation of verified product
33 performance as required in (a) or (b) of this subsection to the local
34 health jurisdiction where the product will be installed. Manufacturers
35 of biological remediation technologies for use in the recovery of
36 failed drainfields of on-site sewage disposal systems are not required

1 to register their proprietary treatment products with the department if
2 the following conditions are met:

3 (a) Product performance is verified through product testing using
4 international association of plumbing and mechanical officials guide
5 criteria standard 180-2003, or an equivalent standard, which relates to
6 aerobic bacterial generators for insert into septic tanks, grease
7 interceptors, and grease traps; and

8 (i) Product performance is verified through product testing
9 conducted by a testing facility conforming with the American national
10 standards institute requirements;

11 (ii) The biological component of the product meets the conditions
12 of RCW 70.118.060 relating to additive regulation; and

13 (iii) The biological remediation technology is used solely for the
14 purpose of remedying or fixing a clogged infiltrative surface in a
15 failed on-site sewage disposal system; or

16 (b) Third-party field testing conducted in or out of Washington
17 state, accredited by the American national standards institute,
18 university testing data, or a department-approved entity, showing
19 remediation of a failed drainfield within ninety days; and

20 (i) Product performance is verified through product testing
21 conducted by a testing facility conforming with the American national
22 standards institute requirements;

23 (ii) The biological component of the product meets the conditions
24 of RCW 70.118.060 relating to additive regulation; and

25 (iii) The biological remediation technology is used solely for the
26 purpose of remedying or fixing a clogged infiltrative surface in a
27 failed on-site sewage disposal system.

28 (2) The definitions in RCW 70.118.020 apply throughout this
29 section.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.118 RCW
31 to read as follows:

32 (1) Biological remediation technology may be used in on-site sewage
33 disposal systems not in a state of failure for the purpose of
34 preventing clogged infiltrative surfaces.

35 (2) On-site wastewater treatment system designers licensed under
36 chapter 18.210 RCW, installers approved by the local health officer to
37 install on-site sewage disposal systems or components, professional

1 engineers licensed under chapter 18.43 RCW, or licensed on-site
2 wastewater treatment system operation and maintenance professionals may
3 install biological remediation products for use in on-site sewage
4 disposal systems not in a state of failure.

5 (3) A permit is not required for the installation or use of
6 biological remediation devices when an on-site sewage disposal system
7 is not in a state of failure. A local health jurisdiction may require
8 registration for tracking purposes.

9 (4) Purchasers of biological remediation devices for use in on-site
10 sewage disposal systems not in a state of failure are required to
11 maintain an operation and maintenance contract with a licensed on-site
12 sewage professional as described in subsection (2) of this section. A
13 local health jurisdiction may require yearly reporting of data
14 collected from the operation and maintenance inspections by the
15 licensed on-site sewage professional.

16 (5) Biological remediation products used for installation in
17 on-site sewage disposal systems not in a state of failure must qualify
18 for an exemption from the state list of approved products under the
19 requirements established in section 3 of this act. Upon adoption of
20 rules by the state board of health on July 1, 2010, biological
21 remediation products used for installation in on-site sewage disposal
22 systems not in a state of failure must be on the state list of approved
23 biological remediation products for use in the state under the new
24 standards.

25 NEW SECTION. **Sec. 5.** (1) The state board of health shall adopt
26 rules by July 1, 2010, for verification of biological remediation
27 products performance and use of products with verified performance for
28 use in failing on-site sewage disposal systems.

29 (2) The rules must stipulate requirements for:

30 (a) Permitting, ongoing certification of products, continued
31 product use, and requirements for removal of biological remediation
32 products;

33 (b) Monitoring of on-site sewage disposal systems using biological
34 remediation technology and at least annual inspection of failing on-
35 site sewage disposal systems that have biological remediation
36 technologies installed to return any component of the on-site sewage
37 disposal system to a state of nonfailure; and

1 (c) Certifying, registering, and using biological remediation
2 products without a permit as a preventative measure in on-site sewage
3 disposal systems not in a state of failure.

4 (3) Rules developed under this section shall apply to biological
5 remediation services for all on-site sewage disposal systems.

6 (4) During its rule-making process, the department shall determine
7 whether permit exemptions outlined in section 4 of this act shall be
8 continued.

9 (5) The definitions in RCW 70.118A.020 apply throughout this
10 section.

11 NEW SECTION. **Sec. 6.** (1) A local health jurisdiction may permit
12 biological remediation products for use in failing on-site sewage
13 disposal systems. Prior to issuing a permit for a biological
14 remediation product, the local health officer or on-site wastewater
15 treatment system designer licensed under chapter 18.210 RCW must
16 perform an assessment, considering site and effluent specific
17 characteristics, of the on-site sewage disposal system to determine if
18 biological remediation technology is appropriate to bring the system
19 into a state of nonfailure and that the biological remediation
20 technology will not adversely impact the environment or public health
21 by increased wastewater flows through the on-site sewage disposal
22 system and soil.

23 (2) The permit must state inspection, monitoring, and maintenance
24 requirements.

25 (3) The local health jurisdiction must require system repairs to
26 meet on-site sewage disposal system requirements as found in chapter
27 246-272A WAC if an on-site sewage disposal system with a biological
28 remediation product does not remedy a clogged infiltrative surface
29 within three months.

30 (4) Each permit must include:

31 (a) A plan with a time frame for correcting any public health
32 concern associated with the failing on-site sewage disposal system and
33 the means to protect public health until the concern is addressed;

34 (b) A plan for operation and maintenance that is filed with the
35 local health jurisdiction;

36 (c) A schedule for maintenance and operation reports detailing the

1 status of the on-site sewage disposal system with the local health
2 jurisdiction where the on-site sewage disposal system is located;

3 (d) A contract with the owner of the on-site sewage disposal system
4 with a biological remediation product for inspection and monitoring by
5 an inspector certified under RCW 70.118.120 or local health officer;

6 (e) Information for the owner of an on-site sewage disposal system
7 with a biological remediation product that includes: (i) Instructions
8 for appropriate maintenance and operation of an on-site sewage system;
9 and (ii) a statement that if the on-site sewage disposal system remains
10 in a state of failure after three months, the owner will be required to
11 repair the on-site sewage disposal system as required by chapter 246-
12 272A WAC, and an estimate of those costs; and

13 (f) A signed document from the homeowner allowing the local health
14 officer to enter the property for the purpose of determining if a
15 biological remediation product has remedied a failed drainfield after
16 ninety days of installation. Failure to allow access for the
17 inspection voids the permit and the local health jurisdiction may
18 prohibit the use of the system until the inspection occurs.

19 (5) The on-site professional who installed the biological
20 remediation device shall reimburse the purchaser for the direct cost of
21 the product and installation if the purchaser of the biological
22 remediation device requests in writing the removal of the biological
23 remediation device and reimbursement and:

24 (a) The biological remediation product fails to make significant
25 improvements in the condition of a failed drainfield within ninety days
26 of installation and it is determined by the local health officer that
27 a repair must be made to correct the failure; or

28 (b) The on-site sewage disposal system reenters a state of failure
29 within one year of installation of the biological remediation product
30 and it is determined by the local health officer that a repair must be
31 made to correct the failure.

32 (6) The definitions in RCW 70.118.020 apply throughout this
33 section.

34 NEW SECTION. **Sec. 7.** (1) Only on-site wastewater treatment system
35 designers licensed under chapter 18.210 RCW, installers approved by the
36 local health officer to install on-site sewage disposal systems or

1 components, or professional engineers licensed under chapter 18.43 RCW
2 are permitted to install biological remediation products for use in
3 failing on-site sewage disposal systems.

4 (2) The definitions in RCW 70.118.020 apply throughout this
5 section.

6 **Sec. 8.** RCW 70.118.080 and 1994 c 281 s 5 are each amended to read
7 as follows:

8 (1) Each manufacturer of a certified and approved additive product
9 or of a biological remediation product advertised, sold, or distributed
10 in the state and each installer of a biological remediation product
11 advertised, sold, or distributed in the state shall:

12 (a) Make no claims relating to the elimination of the need for
13 septic tank pumping or proper septic tank maintenance;

14 (b) List the components of additive products and biological
15 remediation products on the product label, along with information
16 regarding instructions for use and precautions;

17 (c) Make no false statements, design, or graphic representation
18 relative to a biological remediation product that is inconsistent with
19 this chapter or to an additive product that is inconsistent with RCW
20 70.118.060, 70.118.070, or this section; and

21 (d) Make no claims, either direct or implied, about the performance
22 of the product based on state approval of its ingredients.

23 (2) A violation of this section is an unfair act or practice in
24 violation of the consumer protection act, chapter 19.86 RCW.

25 NEW SECTION. **Sec. 9.** Sections 3 through 7 of this act expire July
26 1, 2010."

27 Correct the title.

EFFECT: Provides that section 4 of the bill will expire on July 1,
2010. Requires the Department of Health to consider during its rule-
making process whether permit exemptions should be continued. The
rules developed must apply to the biological remediation services for
all sewage systems. Requires the installer of the biological
remediation device to reimburse the purchaser for the cost of the

product and installation if the on-site sewage disposal system reenters a state of failure within one year of installation and it is determined by the local health officer that a repair must be made to correct the failure. Prohibits manufacturers and installers of biological remediation products from making certain claims and statements. Requires manufacturers and installers to list the components of the products on the product label. Provides that manufacturers and installers are liable under the Consumer Protection Act for specified false claims and actions.

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