
SENATE BILL 5186

State of Washington 60th Legislature 2007 Regular Session

By Senators Morton, Swecker, Hewitt, Holmquist, Pflug, McCaslin, Brandland, Parlette, Schoesler, Clements, Roach, Carrell and Berkey

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1 AN ACT Relating to beneficial use of discarded vehicle tires;
2 amending RCW 70.95.020, 70.95.030, 70.95.260, 70.95.300, 70.95.500,
3 70.95.530, and 70.95.535; and adding a new section to chapter 70.95
4 RCW.

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

6 **Sec. 1.** RCW 70.95.020 and 2005 c 394 s 2 are each amended to read
7 as follows:

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

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

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

5 (4) To encourage the development and operation of waste recycling
6 facilities needed to accomplish the management priority of waste
7 recycling, to promote consistency in the requirements for such
8 facilities throughout the state, and to ensure that recyclable
9 materials diverted from the waste stream for recycling are routed to
10 facilities in which recycling occurs;

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

14 (6) To encourage storage, proper disposal, ~~((and))~~ recycling, and
15 beneficial use of discarded vehicle tires ~~((and))~~;

16 (7) To stimulate private recycling programs throughout the state;
17 and

18 ~~((+7))~~ (8) To encourage the development and operation of waste
19 recycling facilities and activities needed to accomplish the management
20 priority of waste recycling and to promote consistency in the
21 permitting requirements for such facilities and activities throughout
22 the state.

23 It is the intent of the legislature that local governments be
24 encouraged to use the expertise of private industry and to contract
25 with private industry to the fullest extent possible to carry out solid
26 waste recovery ~~((and/or))~~ and recycling programs.

27 **Sec. 2.** RCW 70.95.030 and 2004 c 101 s 1 are each amended to read
28 as follows:

29 ~~((As used in this chapter, unless the context indicates~~
30 ~~otherwise+))~~ The definitions in this section apply throughout this
31 chapter unless the context clearly requires otherwise.

32 (1) "Beneficial use of discarded vehicle tires" means use that is
33 not storage, disposal, or recycling but serves as a replacement for
34 another product or material for specific purposes, and includes use of
35 chipped tires as low-density, light-weight aggregate fill.

36 (2) "City" means every incorporated city and town.

1 ~~((+2))~~ (3) "Commission" means the utilities and transportation
2 commission.

3 ~~((+3))~~ (4) "Committee" means the state solid waste advisory
4 committee.

5 ~~((+4))~~ (5) "Composted material" means organic solid waste that has
6 been subjected to controlled aerobic degradation at a solid waste
7 facility in compliance with the requirements of this chapter. Natural
8 decay of organic solid waste under uncontrolled conditions does not
9 result in composted material.

10 ~~((+5))~~ (6) "Department" means the department of ecology.

11 ~~((+6))~~ (7) "Director" means the director of the department of
12 ecology.

13 ~~((+7))~~ (8) "Disposal site" means the location where any final
14 treatment, utilization, processing, or deposit of solid waste occurs.

15 ~~((+8))~~ (9) "Energy recovery" means a process operating under
16 federal and state environmental laws and regulations for converting
17 solid waste into usable energy and for reducing the volume of solid
18 waste.

19 ~~((+9))~~ (10) "Functional standards" means criteria for solid waste
20 handling expressed in terms of expected performance or solid waste
21 handling functions.

22 ~~((+10))~~ (11) "Incineration" means a process of reducing the volume
23 of solid waste operating under federal and state environmental laws and
24 regulations by use of an enclosed device using controlled flame
25 combustion.

26 ~~((+11))~~ (12) "Inert waste landfill" means a landfill that receives
27 only inert waste, as determined under RCW 70.95.065, and includes
28 facilities that use inert wastes as a component of fill.

29 ~~((+12))~~ (13) "Jurisdictional health department" means city,
30 county, city-county, or district public health department.

31 ~~((+13))~~ (14) "Landfill" means a disposal facility or part of a
32 facility at which solid waste is placed in or on land and which is not
33 a land treatment facility.

34 ~~((+14))~~ (15) "Local government" means a city, town, or county.

35 ~~((+15))~~ (16) "Modify" means to substantially change the design or
36 operational plans including, but not limited to, removal of a design
37 element previously set forth in a permit application or the addition of
38 a disposal or processing activity that is not approved in the permit.

1 ~~((16))~~ (17) "Multiple family residence" means any structure
2 housing two or more dwelling units.

3 ~~((17))~~ (18) "Person" means individual, firm, association,
4 copartnership, political subdivision, government agency, municipality,
5 industry, public or private corporation, or any other entity
6 whatsoever.

7 ~~((18))~~ (19) "Recyclable materials" means those solid wastes that
8 are separated for recycling or reuse, such as papers, metals, and
9 glass, that are identified as recyclable material pursuant to a local
10 comprehensive solid waste plan. Prior to the adoption of the local
11 comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2),
12 local governments may identify recyclable materials by ordinance from
13 July 23, 1989.

14 ~~((19))~~ (20) "Recycling" means transforming or remanufacturing
15 waste materials into usable or marketable materials for use other than
16 landfill disposal or incineration.

17 ~~((20))~~ (21) "Residence" means the regular dwelling place of an
18 individual or individuals.

19 ~~((21))~~ (22) "Sewage sludge" means a semisolid substance
20 consisting of settled sewage solids combined with varying amounts of
21 water and dissolved materials, generated from a wastewater treatment
22 system, that does not meet the requirements of chapter 70.95J RCW.

23 ~~((22))~~ (23) "Soil amendment" means any substance that is intended
24 to improve the physical characteristics of the soil, except composted
25 material, commercial fertilizers, agricultural liming agents,
26 unmanipulated animal manures, unmanipulated vegetable manures, food
27 wastes, food processing wastes, and materials exempted by rule of the
28 department, such as biosolids as defined in chapter 70.95J RCW and
29 wastewater as regulated in chapter 90.48 RCW.

30 ~~((23))~~ (24) "Solid waste" or "wastes" means all putrescible and
31 nonputrescible solid and semisolid wastes including, but not limited
32 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
33 demolition and construction wastes, abandoned vehicles or parts
34 thereof, and recyclable materials.

35 ~~((24))~~ (25) "Solid waste handling" means the management, storage,
36 collection, transportation, treatment, utilization, processing, and
37 final disposal of solid wastes, including the recovery and recycling of

1 materials from solid wastes, the recovery of energy resources from
2 solid wastes or the conversion of the energy in solid wastes to more
3 useful forms or combinations thereof.

4 ~~((+25+))~~ (26) "Source separation" means the separation of different
5 kinds of solid waste at the place where the waste originates.

6 ~~((+26+))~~ (27) "Vehicle" includes every device physically capable of
7 being moved upon a public or private highway, road, street, or
8 watercourse and in, upon, or by which any person or property is or may
9 be transported or drawn upon a public or private highway, road, street,
10 or watercourse, except devices moved by human or animal power or used
11 exclusively upon stationary rails or tracks.

12 ~~((+27+))~~ (28) "Waste-derived soil amendment" means any soil
13 amendment as defined in this chapter that is derived from solid waste
14 as defined in RCW 70.95.030, but does not include biosolids or
15 biosolids products regulated under chapter 70.95J RCW or wastewaters
16 regulated under chapter 90.48 RCW.

17 ~~((+28+))~~ (29) "Waste reduction" means reducing the amount or
18 toxicity of waste generated or reusing materials.

19 ~~((+29+))~~ (30) "Yard debris" means plant material commonly created
20 in the course of maintaining yards and gardens, and through
21 horticulture, gardening, landscaping, or similar activities. Yard
22 debris includes but is not limited to grass clippings, leaves,
23 branches, brush, weeds, flowers, roots, windfall fruit, vegetable
24 garden debris, holiday trees, and tree prunings four inches or less in
25 diameter.

26 **Sec. 3.** RCW 70.95.260 and 1995 c 399 s 189 are each amended to
27 read as follows:

28 The department shall in addition to its other powers and duties:

29 (1) Cooperate with the appropriate federal, state, interstate and
30 local units of government and with appropriate private organizations in
31 carrying out the provisions of this chapter.

32 (2) Coordinate the development of a solid waste management plan for
33 all areas of the state in cooperation with local government, the
34 department of community, trade, and economic development, and other
35 appropriate state and regional agencies. The plan shall relate to
36 solid waste management for twenty years in the future and shall be
37 reviewed biennially, revised as necessary, and extended so that

1 perpetually the plan shall look to the future for twenty years as a
2 guide in carrying out a state coordinated solid waste management
3 program. The plan shall be developed into a single integrated document
4 and shall be (~~adopted no later than October 1990. The plan shall be~~)
5 revised regularly after its initial completion so that local
6 governments revising local comprehensive solid waste management plans
7 can take advantage of the data and analysis in the state plan.

8 (3) Provide technical assistance to any person as well as to
9 cities, counties, and industries.

10 (4) Initiate, conduct, and support research, demonstration
11 projects, and investigations, and coordinate research programs
12 pertaining to solid waste management systems, including beneficial use
13 of discarded vehicle tires.

14 (5) Develop statewide programs to increase public awareness of and
15 participation in tire recycling, and to stimulate and encourage local
16 private tire recycling centers and public participation in tire
17 recycling.

18 (6) (~~May, under the provisions of the Administrative Procedure~~
19 ~~Act, chapter 34.05 RCW, as now or hereafter amended, from time to time~~
20 ~~promulgate such~~) Adopt those rules (~~and regulations~~) as are
21 necessary to carry out the purposes of this chapter.

22 **Sec. 4.** RCW 70.95.300 and 1998 c 156 s 2 are each amended to read
23 as follows:

24 (1) Except as provided in section 8 of this act, the department may
25 by rule exempt a solid waste from the permitting requirements of this
26 chapter for one or more beneficial uses. In adopting such rules, the
27 department shall specify both the solid waste that is exempted from the
28 permitting requirements and the beneficial use or uses for which the
29 solid waste is so exempted. The department shall consider: (a)
30 Whether the material will be beneficially used or reused; and (b)
31 whether the beneficial use or reuse of the material will present
32 threats to human health or the environment.

33 (2) The department may also exempt a solid waste from the
34 permitting requirements of this chapter for one or more beneficial uses
35 by approving an application for such an exemption. The department
36 shall establish by rule procedures under which a person may apply to
37 the department for such an exemption. The rules shall establish

1 criteria for providing such an exemption, which shall include, but not
2 be limited to: (a) The material will be beneficially used or reused;
3 and (b) the beneficial use or reuse of the material will not present
4 threats to human health or the environment. Rules adopted under this
5 subsection shall identify the information that an application shall
6 contain. Persons seeking such an exemption shall apply to the
7 department under the procedures established by the rules adopted under
8 this subsection.

9 (3) After receipt of an application filed under rules adopted under
10 subsection (2) of this section, the department shall review the
11 application to determine whether it is complete, and forward a copy of
12 the completed application to all jurisdictional health departments for
13 review and comment. Within forty-five days, the jurisdictional health
14 departments shall forward to the department their comments and any
15 other information they deem relevant to the department's decision to
16 approve or disapprove the application. Every complete application
17 shall be approved or disapproved by the department within ninety days
18 of receipt. If the application is approved by the department, the
19 solid waste is exempt from the permitting requirements of this chapter
20 when used anywhere in the state in the manner approved by the
21 department. If the composition, use, or reuse of the solid waste is
22 not consistent with the terms and conditions of the department's
23 approval of the application, the use of the solid waste remains subject
24 to the permitting requirements of this chapter.

25 (4) The department shall establish procedures by rule for providing
26 to the public and the solid waste industry notice of and an opportunity
27 to comment on each application for an exemption under subsection (2) of
28 this section.

29 (5) Any jurisdictional health department or applicant may appeal
30 the decision of the department to approve or disapprove an application
31 under subsection (3) of this section. The appeal shall be made to the
32 pollution control hearings board by filing with the hearings board a
33 notice of appeal within thirty days of the decision of the department.
34 The hearings board's review of the decision shall be made in accordance
35 with chapter 43.21B RCW and any subsequent appeal of a decision of the
36 board shall be made in accordance with RCW 43.21B.180.

37 (6) This section shall not be deemed to invalidate the exemptions
38 or determinations of nonapplicability in the department's solid waste

1 rules as they exist on June 11, 1998, which exemptions and
2 determinations are recognized and confirmed subject to the department's
3 continuing authority to modify or revoke those exemptions or
4 determinations by rule.

5 **Sec. 5.** RCW 70.95.500 and 1985 c 345 s 4 are each amended to read
6 as follows:

7 (1) No person may drop, deposit, discard, or otherwise dispose of
8 vehicle tires on any public property or private property in this state
9 or in the waters of this state whether from a vehicle or otherwise,
10 including, but not limited to, any public highway, public park, beach,
11 campground, forest land, recreational area, trailer park, highway,
12 road, street, or alley unless:

13 (a) The property is designated by the state, or by any of its
14 agencies or political subdivisions, for the disposal of discarded
15 vehicle tires; and

16 (b) The person is authorized to use the property for such purpose.

17 (2) A violation of this section is punishable by a civil penalty,
18 which shall not be less than two hundred dollars nor more than two
19 thousand dollars for each offense.

20 (3) This section does not apply to:

21 (a) The storage or deposit of vehicle tires in quantities deemed
22 exempt under rules adopted by the department ((of ecology)) under its
23 functional standards for solid waste; or

24 (b) Beneficial use of discarded vehicle tires pursuant to rules
25 adopted by the department under section 8 of this act.

26 **Sec. 6.** RCW 70.95.530 and 2005 c 354 s 5 are each amended to read
27 as follows:

28 (1) Moneys in the waste tire removal account may be appropriated to
29 the department of ecology:

30 (a) To provide for funding to state and local governments for the
31 removal of discarded vehicle tires from unauthorized tire dump sites;

32 (b) To accomplish the other purposes of RCW 70.95.020 as they
33 relate to waste tire cleanup under this chapter; and

34 (c) To ~~((conduct a study of existing tire cleanup sites. The~~
35 ~~office of financial management shall oversee the study process and~~
36 ~~approve the completed study. The completed study shall be delivered to~~

1 the house of representatives and senate transportation committees by
2 November 15, 2005. In conducting the study, the department shall
3 consult on a regular basis with interested parties. The following
4 identified elements at a minimum shall be included in the completed
5 study:

6 (i) Identification of existing tire cleanup sites in the state of
7 Washington;

8 (ii) The estimated number of tires in each tire cleanup site;

9 (iii) A map identifying the location of each one of the tire
10 cleanup sites;

11 (iv) A photograph of each one of the tire cleanup sites;

12 (v) The estimated cost for cleanup of each tire [cleanup] site by
13 cost component;

14 (vi) The estimated reimbursement of costs to be recovered from
15 persons or entities that created or have responsibility for the tire
16 cleanup site;

17 (vii) Identification of the type of reimbursements for recovery by
18 each of the tire cleanup sites;

19 (viii) The estimated time frame to begin the cleanup project and
20 the estimated completion date for each tire cleanup site;

21 (ix) An assessment of local government functions relating to
22 unauthorized tire piles, including cleanup, enforcement, and public
23 health;

24 (x) Identification of needs in the areas in (c)(ix) of this
25 subsection for each one of the counties; and

26 (xi) A statewide cleanup plan based on multiple funding options
27 between twenty cents and sixty cents for each new tire sold at retail
28 in the state starting on July 1, 2005. The plan shall include the
29 estimated time frame to begin each of the tire cleanup sites and the
30 estimated completion date for each one of the sites. In addition, the
31 plan must include a process to be followed in selecting entities to
32 perform the tire site cleanups. The 2006 legislature shall determine
33 the final distribution of the tire cleanup fee and the appropriations
34 for this statewide tire cleanup plan)) facilitate the beneficial use of
35 discarded vehicle tires.

36 (2) In spending funds in the account under this section, the
37 department of ecology shall identify communities with the most severe

1 problems with waste tires and provide funds first to those communities
2 to remove accumulations of waste tires.

3 (3) Immediately after July 1, 2005, the department of ecology shall
4 initiate a pilot project in a city with a population between three and
5 four thousand within a county with a population less than twenty
6 thousand to contract to clean up a formerly licensed tire pile in
7 existence for ten or more years. To begin the project, the department
8 shall seek to use financial assurance funds set aside for clean up of
9 the tire pile. For purposes of this subsection, population figures are
10 the official 2004 population as estimated by the office of financial
11 management for purposes of state revenue allocation.

12 **Sec. 7.** RCW 70.95.535 and 1989 c 431 s 93 are each amended to read
13 as follows:

14 (1) Every person engaged in making retail sales of new replacement
15 vehicle tires in this state shall retain ten percent of the collected
16 one dollar fee. The moneys retained may be used for costs associated
17 with the proper management of the waste vehicle tires by the retailer.

18 (2) The department of ecology will administer the funds for the
19 purposes specified in RCW 70.95.020(~~(+5)~~) (6) and (7) including, but
20 not limited to:

21 (a) Making grants to local governments for pilot demonstration
22 projects for on-site shredding and recycling of tires from unauthorized
23 dump sites;

24 (b) Grants to local government for enforcement programs;

25 (c) Implementation of a public information and education program to
26 include posters, signs, and informational materials to be distributed
27 to retail tire sales and tire service outlets; and

28 (d) Product marketing studies for recycled tires and alternatives
29 to land disposal, including beneficial use of discarded vehicle tires.

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

32 The department shall by rule exempt from the permitting
33 requirements of this chapter the beneficial use of discarded vehicle
34 tires. The department may impose those conditions as may be necessary

1 to protect human health and the environment.

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