

SENATE BILL REPORT

SB 6557

As of January 21, 2010

Title: An act relating to limiting the use of certain substances in brake friction material.

Brief Description: Limiting the use of copper and other substances in vehicle brake pads.

Sponsors: Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser and Kline; by request of Department of Ecology and Puget Sound Partnership.

Brief History:

Committee Activity: Environment, Water & Energy: 1/22/10.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Sam Thompson (786-7413)

Background: Motor vehicle brakes contain friction material (brake pads) designed to retard or stop movement of a motor vehicle through friction against a rotor. Brake pads may include several substances, including copper and other metals. Operation of brake pads generates dust containing these substances. Brake pad dust has been identified as a significant source of copper in the environment. High copper levels are toxic to aquatic life, including salmon.

Summary of Bill: Sale of brake pads containing several substances is prohibited in Washington. Beginning in:

- 2014, sale of brake pads containing more than trace amounts of asbestos, cadmium, chromium, lead, and mercury is prohibited;
- 2015, sale of after-market (replacement) brake pads exceeding 5 percent copper by weight is prohibited; and
- 2020, sale of new vehicles with brake pads exceeding 5 percent copper by weight is prohibited.

Sale of brake pads containing more than 0.5 percent copper by weight may be prohibited beginning in 2025 if certain conditions are met.

Exemptions. Certain motor vehicles and brakes are exempt, including combat vehicles, vehicles with fully contained brakes normally emitting no debris or fluids, and brakes designed for holding vehicles stationary and not for use while vehicles are in motion.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certifying Compliance. By December 1, 2012, the Department of Ecology (Ecology) must, after consulting interested parties, develop certification criteria. Beginning in 2015:

- Manufacturers of brake pads offered for sale in Washington must obtain, from a qualified testing agency approved by Ecology, certification of compliance with requirements and mark certification on brake pads.
- Retailers of brake pads must ensure that they only offer for sale in Washington brake pads certified to be compliant with requirements.

Beginning in 2020, manufacturers of new motor vehicles offered for sale in Washington must ensure that vehicles are equipped with brake pads certified to be compliant with requirements.

Mandating Low-Copper Brake Pads. Sale of brake pads containing more than 0.5 percent copper by weight may be prohibited, if certain conditions are met.

By December 2020, Ecology must review analysis regarding "alternative brake friction material" (alternative pads) that:

- do not contain more than 0.5 percent copper or trace amounts of asbestos, cadmium, chromium, lead, and mercury;
- enable brakes to meet Federal safety standards for new brakes;
- are available at a cost and quantity to enable manufacturers to produce economically viable products; and
- enable manufacturers to produce products meeting consumer expectations.

If Ecology finds that alternative pads may be available, it must convene a Brake Friction Material Advisory Committee (Committee) to conduct an assessment. Following an assessment, the Committee must recommend to Ecology whether alternative pads are available.

The Committee consists of at least seven members:

- a representative of Ecology, who will chair the Committee;
- the Chief of the Washington State Patrol or designee; and
- representatives of brake pad manufacturers, motor vehicle manufacturers, a nongovernmental organization (NGO) concerned with motor vehicle safety, the National Highway Traffic Safety Administration, and an NGO concerned with the environment.

If the Committee recommends that alternative pads are available, Ecology will find that alternative pads are available or unavailable. If the Committee recommends that alternative pads are not available, Ecology must periodically evaluate the finding. If, following a new evaluation, Ecology finds that alternative pads may be available, it must reconvene the Committee to conduct an assessment.

If, following the Committee's assessment and recommendation, Ecology finds that alternative pads are available, the agency must report the finding to the Legislature by December 1 of the year in which it makes the finding. Beginning five years after the report submittal date

but no earlier than 2025, brake pads exceeding 0.5 percent copper by weight may not be sold in Washington.

Report to Legislature. By December 2021, Ecology must report to the Legislature regarding its findings and the Committee's recommendations. The report must include evidence of potential harm posed by copper in the environment.

Data Tracking. By 2013, and at least every three years thereafter, manufacturers must provide Ecology with data regarding antimony, copper, nickel, and zinc in brake pads. By July 2013, Ecology must establish baseline concentrations for those substances. The agency will use data to track progress toward reducing use of copper and ensure that antimony, nickel, or zinc concentrations do not increase by more than 50 percent above baseline levels. If concentrations increase by more than 50 percent. Ecology must review studies to determine potential impact on human health and the environment. If it determines that antimony, nickel, or zinc in brake pads should be controlled, Ecology must set priorities for future regulation.

Penalties. Violators are subject to a civil fine of up to \$10,000 per day per violation. A violation includes, but is not limited to, sale of motor vehicles with brake pads that do not comply with requirements and falsifying certification of compliance. Ecology will enforce requirements.

Rulemaking. Ecology may adopt implementing rules.

Appropriation: None.

Fiscal Note: Requested on January 18, 2010.

Committee/Commission/Task Force Created: No.

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