
SUBSTITUTE SENATE BILL 6557

State of Washington

61st Legislature

2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser, and Kline; by request of Department of Ecology and Puget Sound Partnership)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to limiting the use of certain substances in brake
2 friction material; adding a new chapter to Title 70 RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Brake friction material is an essential component of motor
7 vehicle brakes and is critically important to transportation safety and
8 public safety in general;

9 (2) Debris from brake friction material containing copper and its
10 compounds is generated and released to the environment during normal
11 operation of motor vehicle brakes;

12 (3) Thousands of pounds of copper and other substances released
13 from brake friction material enter Washington state's streams, rivers,
14 and marine environment every year; and

15 (4) Copper is toxic to many aquatic organisms in both marine and
16 freshwater environments and impairs the sensory systems of salmon,
17 hindering their ability to elude predators and return to spawning
18 streams.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Accredited laboratory" means a laboratory that is:

4 (a) Qualified and equipped for testing of products, materials,
5 equipment, and installations in accordance with national or
6 international standards; and

7 (b) Accredited by a third-party organization approved by the
8 department to accredit laboratories for purposes of this chapter.

9 (2) "Alternative brake friction material" means brake friction
10 material that:

11 (a) Does not contain:

12 (i) More than 0.5 percent copper or its compounds by weight;

13 (ii) The constituents identified in section 3 of this act at the
14 concentrations specified; and

15 (iii) Any other material determined by the department to be harmful
16 to human health or the environment;

17 (b) Enables motor vehicle brakes to meet safety standards;

18 (c) Is available at a cost and quantity that does not cause
19 significant financial hardship across the brake friction material
20 manufacturing industry; and

21 (d) Is available to enable brake friction material manufacturers to
22 produce viable products meeting consumer expectations regarding braking
23 noise, shuddering, and durability.

24 (3) "Brake friction material" means that part of a motor vehicle
25 brake designed to retard or stop the movement of a motor vehicle
26 through friction against a rotor made of more durable material.

27 (4) "Committee" means the brake friction material advisory
28 committee.

29 (5) "Department" means the department of ecology.

30 (6)(a) "Motor vehicle" has the same meaning as defined in RCW
31 46.04.320 that are subject to licensing requirements under RCW
32 46.16.010.

33 (b) "Motor vehicle" does not include:

34 (i) Motorcycles as defined in RCW 46.04.330;

35 (ii) Motor vehicles employing internal closed oil immersed motor
36 vehicle brakes or similar brake systems that are fully contained and
37 emit no debris or fluid under normal operating conditions; or

38 (iii) Military combat vehicles.

1 (7)(a) "Motor vehicle brake" means an energy conversion mechanism
2 used to retard or stop the movement of a motor vehicle.

3 (b) "Motor vehicle brake" does not include brakes designed
4 primarily to hold motor vehicles stationary and not for use while motor
5 vehicles are in motion.

6 (8) "Original equipment service" means brake friction material
7 provided as service parts originally designed for and using the same
8 brake friction material formulation sold with a new motor vehicle.

9 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2014, brake
10 friction material containing any of the following constituents in an
11 amount exceeding the specified concentrations may not be sold or
12 offered for sale in Washington state:

13 (a) Asbestiform fibers, 0.1 percent by weight.

14 (b) Cadmium and its compounds, 0.01 percent by weight.

15 (c) Chromium(VI)-salts, 0.1 percent by weight.

16 (d) Lead and its compounds, 0.1 percent by weight.

17 (e) Mercury and its compounds, 0.1 percent by weight.

18 (2) Beginning January 1, 2021, brake friction material containing
19 more than five percent copper and its compounds by weight may not be
20 sold or offered for sale in Washington state.

21 (3) Brake friction material bearing a marking proof of
22 certification, as required in section 8 of this act, indicating that
23 the brake friction material was manufactured prior to 2021 is exempt
24 from subsection (2) of this section. This exemption expires January 1,
25 2031.

26 NEW SECTION. **Sec. 4.** (1) By December 1, 2015, the department
27 shall review risk assessments, scientific studies, and other relevant
28 analysis regarding alternative brake friction material and determine
29 whether the material may be available.

30 (2) If the department finds that alternative brake friction
31 material may be available, it shall convene a brake friction material
32 advisory committee. The committee shall include, but is not limited
33 to:

34 (a) A representative of the department, who will chair the
35 committee;

1 (b) The chief of the Washington state patrol, or the chief's
2 designee;

3 (c) A representative of manufacturers of brake friction material;

4 (d) A representative of manufacturers of motor vehicles;

5 (e) A representative of a nongovernmental organization concerned
6 with motor vehicle safety;

7 (f) A representative of the national highway traffic safety
8 administration; and

9 (g) A representative of a nongovernmental organization concerned
10 with the environment.

11 (3) If convened pursuant to subsection (2) of this section, the
12 committee shall assess alternative brake friction material and make a
13 recommendation to the department as to whether the material is
14 available or unavailable. The department shall consider the
15 committee's recommendation and make a finding as to whether alternative
16 brake friction material is available or unavailable.

17 (4) If, pursuant to subsection (3) of this section, the department
18 finds that alternative brake friction material:

19 (a) Is available, it shall comply with section 5 of this act;

20 (b) Is not available, it shall periodically evaluate the finding
21 and, if it determines that alternative brake friction material may be
22 available, comply with subsections (2) and (3) of this section. If the
23 department finds that alternative brake friction material is available,
24 it shall comply with section 5 of this act.

25 NEW SECTION. **Sec. 5.** If, pursuant to section 4 of this act, the
26 department finds that alternative brake friction material is available:

27 (1) It shall report the finding to the legislature by December 1st
28 of the year in which it makes the finding; and

29 (2) Beginning five years after the report submittal date, but no
30 earlier than January 1, 2025, brake friction material containing more
31 than 0.5 percent copper and its compounds by weight may not be sold or
32 offered for sale in Washington state.

33 NEW SECTION. **Sec. 6.** (1) Any manufacturer of brake friction
34 material may apply to the department for an exemption from this chapter
35 for brake friction material intended for a specific motor vehicle model

1 or class of motor vehicles based on special needs or characteristics of
2 the motor vehicles for which the brake friction material is intended.

3 (2) Brake friction material manufactured as part of an original
4 equipment service contract for vehicles manufactured prior to January
5 1, 2021, is exempt from this chapter. This exemption expires January
6 1, 2031.

7 NEW SECTION. **Sec. 7.** (1) By January 1, 2013, and at least every
8 three years thereafter, manufacturers of brake friction material sold
9 or offered for sale in Washington state shall provide data to the
10 department adequate to enable the department to determine
11 concentrations of antimony, copper, nickel, and zinc and their
12 compounds in brake friction material sold or offered for sale in
13 Washington state.

14 (2) Using data provided pursuant to subsection (1) of this section
15 and other data as needed, the department must:

16 (a) By July 1, 2012, establish baseline concentration levels for
17 constituents identified in subsection (1) of this section in brake
18 friction material; and

19 (b) Track progress toward reducing the use of copper and its
20 compounds and ensure that concentration levels of antimony, nickel, or
21 zinc and their compounds do not increase by more than fifty percent
22 above baseline concentration levels.

23 (3) If concentration levels of antimony, nickel, or zinc and their
24 compounds in brake friction material increase by more than fifty
25 percent above baseline concentration levels, the department shall
26 review scientific studies to determine the potential impact of the
27 constituent on human health and the environment. If scientific studies
28 demonstrate the need for controlling the use of the constituent in
29 brake friction material, the department may consider recommending
30 limits on concentration levels of the constituent in the material.

31 NEW SECTION. **Sec. 8.** (1) Manufacturers of brake friction material
32 offered for sale in Washington state must certify compliance with the
33 requirements of this chapter and mark proof of certification on the
34 brake friction material in accordance with criteria developed under
35 this section.

1 (2) By December 1, 2012, the department must, after consulting with
2 interested parties, develop compliance criteria to meet the
3 requirements of this chapter. Compliance criteria includes, but is not
4 limited to:

5 (a) Self-certification of compliance by brake friction materials
6 manufacturers using accredited laboratories; and

7 (b) Marking proof of certification on brake friction material.

8 (3) Beginning January 1, 2021, manufacturers of new motor vehicles
9 offered for sale in Washington state must ensure that motor vehicles
10 are equipped with brake friction material certified to be compliant
11 with the requirements of this chapter.

12 NEW SECTION. **Sec. 9.** (1) The department shall enforce this
13 chapter. The department may periodically purchase and test brake
14 friction material sold or offered for sale in Washington state to
15 verify that the material complies with this chapter.

16 (2) Enforcement of this chapter by the department must rely on
17 notification and information exchange between the department and
18 manufacturers, distributors, and retailers. The department shall issue
19 one warning letter to a manufacturer, distributor, or retailer that
20 sells or offers to sell brake friction material in violation of this
21 chapter, and offer information or other appropriate assistance
22 regarding compliance with this chapter. If compliance is not achieved,
23 the department may assess penalties under subsection (3) of this
24 section.

25 (3) A manufacturer, distributor, or retailer of brake friction
26 material that violates this chapter is subject to a civil penalty not
27 to exceed ten thousand dollars for each violation. Collected penalties
28 must be deposited in the state toxics control account created in RCW
29 70.105D.070.

30 (4) A manufacturer, distributor, or retailer that knowingly
31 violates this chapter shall recall the brake friction material and
32 reimburse the retailer or any other purchaser for the material and any
33 applicable shipping and handling charges for returning the material.

34 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
35 a new chapter in Title 70 RCW.

1 NEW SECTION. **Sec. 11.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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