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**SUBSTITUTE SENATE BILL 6605**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Becker, Brown, and Honeyford)

AN ACT Relating to ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests; amending RCW 70.95.060, 70.95.165, 70.95.180, 70.95.200, and 70.95.300; and adding new sections to chapter 70.95 RCW.

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

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

(1) Any local government that prohibits the disposal of food waste and compostable paper as garbage must ensure that any solid waste management plan it prepares under this chapter prevents the spread of disease, plant pathogens, and pests to areas that are not under a quarantine, as defined in RCW 17.24.007. A local government to which this section applies must consult with the department of agriculture to determine if the local government's solid waste management plan complies with this section prior to submitting the solid waste management plan to the department for approval under RCW 70.95.094. Before a solid waste management plan to which this section applies may be approved, the department must receive a written statement from the department of agriculture stating that the solid waste management plan complies with this section. The department must require the department of agriculture's written statement to be included in the final approved solid waste management plan.

(2) A local government to which this section applies must review and, if necessary, revise any existing solid waste management plan to ensure compliance with this section, no later than ninety days after the effective date of this section. A solid waste management plan that is revised under this subsection is subject to review and approval by the department.

(3) This section does not affect the authority of the department of agriculture under chapter 17.24 RCW.

**Sec.**  RCW 70.95.060 and 1999 c 116 s 1 are each amended to read as follows:

(1) The department shall adopt rules establishing minimum functional standards for solid waste handling, consistent with the standards specified in this section. The department may classify areas of the state with respect to population density, climate, geology, status under a quarantine, as defined in RCW 17.24.007 and other relevant factors bearing on solid waste disposal standards.

(2) In addition to the minimum functional standards adopted by the department under subsection (1) of this section, each landfill facility whose area at its design capacity will exceed one hundred acres and whose horizontal height at design capacity will average one hundred feet or more above existing site elevations shall comply with the standards of this subsection. This subsection applies only to wholly new solid waste landfill facilities, no part or unit of which has had construction commence before April 27, 1999.

(a) No landfill specified in this subsection may be located:

(i) So that the active area is closer than five miles to any national park or a public or private nonprofit zoological park displaying native animals in their native habitats; or

(ii) Over a sole source aquifer designated under the federal safe drinking water act, if such designation was effective before January 1, 1999.

(b) Each landfill specified in this subsection (2) shall be constructed with an impermeable berm around the entire perimeter of the active area of the landfill of such height, thickness, and design as will be sufficient to contain all material disposed in the event of a complete failure of the structural integrity of the landfill.

**Sec.**  RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 are each amended to read as follows:

(1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

(a) Geology;

(b) Groundwater;

(c) Soil;

(d) Flooding;

(e) Surface water;

(f) Slope;

(g) Cover material;

(h) Capacity;

(i) Climatic factors;

(j) Land use;

(k) Toxic air emissions; and

(l) Other factors as determined by the department.

(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information, including information relating to preventing the spread of disease, plant pathogens, and pests to areas that are not under a quarantine, as defined in RCW 17.24.007.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of a minimum of nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, agriculture, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under RCW 43.83.350, for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee.

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

Upon receipt by the department of a preliminary draft plan as provided in RCW 70.95.094, the department shall immediately provide the department of agriculture with a copy of the preliminary draft plan. Within forty-five days after receiving the plan, the department of agriculture shall review the plan for compliance with chapter 17.24 RCW and the rules adopted under that chapter. The department of agriculture shall advise the local government submitting the plan and the department of the result of this review.

**Sec.**  RCW 70.95.180 and 1997 c 213 s 3 are each amended to read as follows:

(1) Applications for permits to operate a new or modified solid waste handling facility shall be on forms prescribed by the department and shall contain a description of the proposed facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local regulations and state ((~~regulations~~)) rules.

(2) Upon receipt of an application for a permit to establish or modify a solid waste handling facility, the jurisdictional health department shall refer one copy of the application to the department which shall report its findings to the jurisdictional health department. When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting from an area under a quarantine, the jurisdictional health department shall also refer a copy of the application to the department of agriculture. The department of agriculture shall review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. For the purposes of this subsection, "composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether a proposed or modified site and facilities meet all solid waste, air, and other applicable laws and regulations, and conforms with the approved comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

**Sec.**  RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended to read as follows:

Any permit for a solid waste disposal site issued as provided herein shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste disposal facilities located on the site are being operated in violation of this chapter, ((~~or~~)) the regulations of the department, the rules of the department of agriculture, or local laws and regulations.

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

(1) The department may by rule exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses. In adopting such rules, the department shall specify both the solid waste that is exempted from the permitting requirements and the beneficial use or uses for which the solid waste is so exempted. The department shall consider: (a) Whether the material will be beneficially used or reused; and (b) whether the beneficial use or reuse of the material will present threats to human health or the environment.

(2) The department may also exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses by approving an application for such an exemption. The department shall establish by rule procedures under which a person may apply to the department for such an exemption. The rules shall establish criteria for providing such an exemption, which shall include, but not be limited to: (a) The material will be beneficially used or reused; and (b) the beneficial use or reuse of the material will not present threats to human health or the environment. Rules adopted under this subsection shall identify the information that an application shall contain. Persons seeking such an exemption shall apply to the department under the procedures established by the rules adopted under this subsection.

(3) After receipt of an application filed under rules adopted under subsection (2) of this section, the department shall review the application to determine whether it is complete, and forward a copy of the completed application to all jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward to the department their comments and any other information they deem relevant to the department's decision to approve or disapprove the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days of receipt. If the application is approved by the department, the solid waste is exempt from the permitting requirements of this chapter when used anywhere in the state in the manner approved by the department. If the composition, use, or reuse of the solid waste is not consistent with the terms and conditions of the department's approval of the application, the use of the solid waste remains subject to the permitting requirements of this chapter.

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

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

(b) The department of agriculture's election to appeal or not to appeal the decision of the department under this subsection does not prevent the department of agriculture from exercising its regulatory and enforcement authority in relation to the solid waste that is the subject of any exemption under this section.

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

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