

HOUSE BILL REPORT

ESSB 6605

As Reported by House Committee On:
Environment
General Government & Information Technology

Title: An act relating to ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests.

Brief Description: Ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests.

Sponsors: Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Becker, Brown and Honeyford).

Brief History:

Committee Activity:

Environment: 2/23/16, 2/25/16 [DPA];

General Government & Information Technology: 2/29/16 [DPA(ENVI)].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Requires the consideration of quarantines and other disease and pest control measures implemented by the Washington State Department of Agriculture during the planning and permitting of certain solid waste activities by local health departments and the Department of Ecology.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 11 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Dye, Farrell, Fey, Goodman, McBride, Pike and Taylor.

Staff: Jacob Lipson (786-7196).

Background:

Solid Waste Management Plans and Permits.

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.

Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. Under state solid waste management laws, counties are required to develop a comprehensive solid waste management plan (Plan) in conjunction with cities within the county, and must update their Plans at least every five years. Counties are directed to establish local solid waste advisory committees to assist in the county's solid waste policy and Plan development processes. Membership of the advisory committees is directed to include local public elected officials, citizens, public interest groups, the waste management industry, and other business.

The Department of Ecology (ECY) also has certain roles in overseeing the administration of solid waste management laws. The ECY is responsible for working cooperatively with local governments as they develop their Plans, and for approving the local Plans developed by counties. As part of the Plan development process, cities and counties must submit a preliminary draft plan to the ECY for technical review.

Facilities that manage, generate, store, or otherwise handle solid wastes, or serve as final disposal sites for solid waste are required to obtain a solid waste handling permit. This permit is issued by a Jurisdictional Health Department (JHD), which may be a city, county, or district public health department. Solid waste handling permits issued by JHDs are reviewed by the ECY for compliance with the Plan and other applicable laws.

Solid Waste Disposal Facility Siting Requirements.

By rule, the ECY is allowed to classify areas of the state for solid waste handling facilities according to factors that bear on solid waste disposal standards, including population density, geology, and climate. In addition, counties and cities that site solid waste disposal facilities must review potential sites for conformance with standards adopted in rule by the ECY for a variety of environmental factors, including geology, hydrology, and climate.

The solid waste disposal rules that the ECY has adopted restrict the siting of municipal solid waste landfills in certain locations based on a variety of geographic factors, such as proximity to airports, floodplains, wetlands, faults, areas affected by earthquakes, and in unstable areas. Likewise, the ECY rules establish other geographic restrictions on other types of landfills and anaerobic digesters. However, the ECY has declined to establish geographic criteria for the siting of other types of solid waste disposal facilities, such as composting facilities, energy recovery and incineration facilities, and land application of solid wastes with beneficial uses.

Regardless of whether the ECY has adopted location standards that apply to a specific types of solid waste disposal facilities, other design and operation criteria apply to the disposal site. Disposal site permits are subject to suspension by a JHD upon a determination that the facility is being operated in violation of state or local solid waste laws, rules, or regulations.

Solid Waste Management Permits and Beneficial Use Determinations.

State solid waste management laws also establish a process by which an applicant can apply to the ECY for a beneficial use determination (BUD) related to a substance subject to solid waste regulations. Solid waste management laws establish a process similar to a BUD that provides for the exemption of waste-derived soil amendments from solid waste permitting requirements. The ECY forwards BUD and waste-derived soil amendment applications to

JHDs for their review and comment, which occurs during a 45-day window. If the ECY makes a BUD for a substance for a particular use or exempts a waste-derived soil amendment, that substance is exempt from solid waste handling permit requirements. However, the person responsible for the substance must continue to manage the solid waste consistent with conditions attached by the ECY to the BUD or the waste-derived soil amendment exemption.

Department of Agriculture Insect Pest and Plant Disease Quarantine Program.

The Washington State Department of Agriculture (WSDA) is charged with implementing certain measures to restrict the spread of harmful plants, pests, and diseases. Among the powers granted to pursue this goal, the WSDA is authorized to adopt rules establishing a quarantine that prohibits movement of bees, plants, plant products, or certain regulated equipment from designated quarantine areas to nonquarantine areas.

In order to declare a quarantine, the WSDA must determine that the quarantine is necessary to protect forestry, agricultural, horticultural, floricultural, beekeeping, or other environmental interests. A WSDA quarantine may prohibit movement of regulated articles that are likely to contain plant pests, noxious weeds, genetically engineered plants, or bee pest organisms. The WSDA may implement quarantines in specific states, counties, areas, places, or agricultural establishments. Quarantines may either be absolute prohibitions on the movement of regulated articles, or may prescribe certain allowable conditions for the movement of regulated articles.

Summary of Amended Bill:

Local Solid Waste Plan Requirements.

When the ECY receives a draft preliminary county Plan, the ECY must provide a copy to the WSDA. The WSDA must review the plan for compliance with insect pest and plant disease rules, including quarantine restrictions, and must advise the local government of the results of their compliance review of the Plan.

The local solid waste policy advisory committees formed by counties must include membership from agricultural interests.

The ECY may consider an area's quarantine status among other relevant factors that bear on solid waste disposal standards.

Solid Waste Handling Facility Permit and Waste Material Exemption Review Requirements.

The JHDs must forward certain applications to establish solid waste handling facilities to the WSDA for review, in addition to the ECY. The facilities covered by this WSDA review requirement are those applications to establish or modify a facility in an area that is not under a WSDA pest, pathogen, or disease quarantine, but that will receive material for composting from an area that is under a quarantine. The WSDA must review these applications to determine if the proposed facility presents a risk of spreading disease, plant pathogens, or pests.

Solid waste disposal site permits are subject to suspension by a JHD if the JHD determines that the facility's operations violate WSDA rules.

When the ECY receives an application for a BUD or a waste-derived soil amendment, it must forward the application to the WSDA at the same time as the application is forwarded to JHDs. The WSDA must submit any comments to the ECY within 45 days. The WSDA's comment on a BUD are limited to addressing whether a BUD or waste-derived soil amendment application approval risks the spread of disease, plant pathogens, or pests to areas not under WSDA quarantine. Violations of conditions attached to waste-derived soil amendment exemptions granted by the ECY are made subject to the same \$1,000 per day penalty that apply to violations of BUD conditions.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill allows the WSDA to comment on the applications for exemptions from solid waste permitting requirements that apply to waste-derived soil amendments, using the same WSDA comment process that applies to other ECY BUDs. Persons who violate conditions attached to a waste-derived soil amendment solid waste exemption are subject to penalties of up to \$1,000 per day.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Solid waste management decisions should take precautions against the spread of pests and diseases, or else run the risk of negative effects to the state's agricultural industries. The state's apple industry could lose its export markets if there is an outbreak of apple maggot in areas of the state that are not currently infected. Involving the WSDA at the front-end of the solid waste planning and permitting process will allow proper protections for agricultural interests, while providing more regulatory certainty after permits are issued. The bill involves the WSDA in a consultative role without diminishing the ECY's authority. It is in the state's interest to encourage the composting of food and yard waste in order to avoid water and air pollution impacts and to reduce landfilling, but composting must be done properly. Locating composting facilities in agricultural areas is efficient because it locates compost products near the potential buyers and users of the compost. The WSDA should be able to review and comment on applications for waste-derived soil amendments, in addition to beneficial use determination applications.

(Opposed) None.

Persons Testifying: Senator Warnick, prime sponsor; Jim Halstrom, Washington State Tree Fruit Association; Laurie Davies, Department of Ecology; and Brad White, Washington State Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

Majority Report: Do pass as amended by Committee on Environment. Signed by 7 members: Representatives Hudgins, Chair; Kuderer, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Johnson, Morris and Senn.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On General Government & Information Technology Compared to Recommendation of Committee On Environment:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill was brought forward to get the Washington State Department of Agriculture (WSDA) involved in the siting of certain facilities near orchards to avoid adverse impacts to the apple industry from apple maggots. Compost and yard waste from apple maggot quarantine areas in western Washington are transported to non-quarantine facilities in eastern Washington. This creates the potential for infection in eastern Washington tree fruit. Even one infestation in a non-quarantine area or a foreign market would be devastating to the apple industry. It is important that the WSDA has input into the siting of these materials and how they are treated once they get to a recycling center.

(Opposed) None.

Persons Testifying: Senator Warnick, prime sponsor; and Dave Ducharme, Washington State Tree Fruit Association.

Persons Signed In To Testify But Not Testifying: None.