
Environment Committee

HB 1738

Brief Description: Continuing to protect water quality by aligning state brake friction material restrictions with the requirements of a similar nationwide agreement.

Sponsors: Representatives Doglio, Jenkin and Tarleton.

Brief Summary of Bill

- Specifies that restrictions limiting the use of brake friction material containing more than 0.5 percent of copper take effect beginning January 1, 2025.
- Eliminates the requirement that the Department of Ecology adopt rules implementing restrictions of copper in brake friction material.

Hearing Date: 1/31/17

Staff: Alex Arkfeld (786-7290) and Jacob Lipson (786-7196).

Background:

Motor vehicle brake pads use friction to stop the vehicle's movement. Brake pads contain various friction materials, which may include material that affects the environment such as copper and asbestos. During the normal operation of vehicle brakes, the brake pads deposit small amounts of brake pad materials on the road. Surface water runoff can then carry the deposited materials to rivers and marine environments. According to the Department of Ecology (ECY), copper is toxic to aquatic organisms and is of particular concern to the health of Washington's salmon.

Washington's Better Brakes Law.

Washington's Better Brakes Law requires the ECY to regulate brake friction material. This law requires the ECY to restrict the use in brake pads of asbestos, cadmium, hexavalent chromium, mercury, and lead. Beginning January 1, 2021, the ECY must limit brake friction material to 5 percent copper. Manufacturers, wholesalers, and distributors are given 10 years from the first

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day of regulation to sell remaining inventory, and existing equipment service contracts are exempt from sales restrictions.

Brake friction material manufactured or packaged after January 1, 2015, must include marked proof certifying that the brake meets state law requirements restricting the use of certain materials in brake pads. Beginning January 1, 2021, motor vehicle manufacturers must ensure that the brake friction material in new vehicles complies with state law requirements.

The ECY is responsible for enforcing the Better Brakes Law and may issue penalties for violations. Prior to imposing a penalty, the ECY must issue a warning letter and offer other assistance to achieve compliance. Penalties include a fine of up to \$10,000 for each violation. A manufacturer that knowingly violates brake friction material restrictions must recall the material and reimburse costs to the purchaser. A violation by a motor vehicle manufacturer requires the manufacturer to notify the registered owner of the vehicle and replace the non-compliant brake friction material at no cost to the vehicle owner. Failure to comply with this notice and replacement requirement may result in a fine up to \$100,000.

The following motor vehicles are exempt from the Better Brakes Law:

- motorcycles;
- collector vehicles;
- military combat vehicles;
- race cars, dual-sport vehicles, or track day vehicles; and
- vehicles with brake systems that emit no debris or fluid under normal circumstances.

Additionally, certain manufacturers of motor vehicles and brake friction material may apply to the ECY for an exemption by demonstrating that compliance with the required standard is not feasible, compromises safety standards, or causes a significant financial hardship.

Recent Developments in Washington.

The Better Brakes Law directed the ECY, with help from a Brake Friction Advisory Committee (Committee), to determine the availability of alternative, less-harmful brake friction material, specifically material containing 0.5 percent or less of copper. The Committee, which the ECY was required to convene, included the following:

- an ECY representative;
- a Washington State Patrol representative;
- a brake friction material manufacturer;
- a motor vehicle manufacturer;
- a National Highway Traffic Safety Administration representative; and
- a representative from a nongovernmental organization concerned with the environment.

If the Committee and the ECY determined that alternative brake friction material was available, it was required to publish its findings in the Washington State Register and adopt rules, to take effect eight years after publication, limiting brake friction material to 0.5 percent or less of copper.

The ECY, based on the Committee's recommendations, recently found that alternative brake friction material is available. On January 9, 2017, the ECY published its findings in the Washington State Register. Therefore, the ECY must limit brake friction material to 0.5 percent or less of copper by January 9, 2025.

National Developments.

In 2015, the United States Environmental Protection Agency, the Environmental Council of the States, and several stakeholder organizations, including brake manufacturers, signed a memorandum of understanding to phase out copper and other specified materials in brake pads. The understanding is voluntary and is not intended to be legally binding or create any contractual obligations. The parties agreed to limit brake friction material to 0.5 percent or less of copper by January 1, 2025.

Summary of Bill:

The dates by which brake friction material must be limited to 0.5 percent or less of copper in state law is harmonized with the timeline set in the national memorandum of understanding. Beginning on January 1, 2025, brake pad manufacturers, wholesalers, retailers, and distributors must limit copper in brake friction material to 0.5 percent or less. Manufacturers, wholesalers, and distributors are given 10 years to sell their then-remaining brake-pad inventory and equipment service contracts for vehicles manufactured before 2025 are exempt from the restrictions.

The requirement, but not the authority, for the ECY to adopt rules to implement the 2025 restrictions on copper in brake pads is eliminated.

Appropriation: None.

Fiscal Note: Available.

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