

SENATE BILL REPORT

SHB 1738

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, March 9, 2017

Title: An act relating to continuing to protect water quality by aligning state brake friction material restrictions with the requirements of a similar nationwide agreement.

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

Sponsors: House Committee on Environment (originally sponsored by Representatives Doglio, Jenkin and Tarleton).

Brief History: Passed House: 2/16/17, 57-40.

Committee Activity: Energy, Environment & Telecommunications: 3/09/17, 3/09/17 [DP, w/oRec].

Brief Summary of Bill

- Prohibits the sale of brake pads containing more than 0.5 percent copper in Washington beginning January 1, 2025.
- Exempts the sale of brake pads manufactured prior to 2025 for the purposes of clearing inventory until January 1, 2035.
- Eliminates the specific authority for the Department of Ecology (Ecology) to adopt rules to implement a ban on brake pads with 0.5 percent copper by weight.
- Provides that Ecology may not adopt rules that exceed the explicit statutorily established requirements.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Carlyle, Ranking Minority Member; Hobbs, Ranker and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Brown, Honeyford and Short.

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.

Staff: Jan Odano (786-7486)

Background: In 2010, the Legislature phased in a ban on the sale of brake pads containing copper and other substances. Bans apply to sale by manufacturers, wholesalers, retailers, and distributors of pads and motor vehicles.

Currently, sale of brake pads containing more than trace amounts of asbestos, cadmium, chromium, lead, and mercury is banned. However, these brake pads manufactured prior to 2015 are exempt to permit clearing of inventory until 2025. In addition, exemptions are provided for brake pads manufactured prior to 2015 as part of an original equipment service contract for vehicles, as well as for certain vehicles and vehicles using certain types of brakes. Beginning in 2021, sale of brake pads containing more than 5 percent copper is banned.

As part of the legislation banning brake pads containing certain substances, the Legislature also set a process to determine if low-copper brake pads may be available. The process requires Ecology to review risk assessments, scientific studies, and other relevant analyses to determine if whether brake pads containing no more than 0.5 percent copper are available. If Ecology finds that low-copper pads may be available, it must convene a Brake Friction Material Advisory Committee (Committee) to separately assess availability of low-copper brake pads. The Committee must make recommendations to Ecology. If the Committee determines that alternative brake pads are available, then Ecology is required to publish the findings in the Washington State Register (WSR). The sale of brake pads containing more than 0.5 percent copper is banned, beginning eight years after the findings are published in the WSR.

The Committee representatives are set forth in statute and include Ecology, the Washington State Patrol, pad manufacturers, vehicle manufacturers, the National Highway Traffic Safety Administration, and a nongovernmental organization concerned with the environment.

Based on data collected from manufacturers since 2011, Ecology determined in November 2015 that alternative brake friction materials were available in Washington. As required, Ecology convened the Committee on April 26, 2016. On October 5, 2016, the Committee made recommendations to Ecology finding that copper-free brake pads: (1) are available; (2) meet applicable federal safety standards and widely accepted industry standards; (3) are cost feasible for brake pad and vehicle manufacturing industries; and (4) meet consumer expectations, safety standards, and performance characteristics.

The Committee also recommended harmonizing state implementation timelines with a national memorandum of understanding (MOU) to phase out copper in brake pads by January 1, 2025. The MOU was developed by the U.S. Environmental Protection Agency, the Environmental Council of the States, and several stakeholder organizations, including brake manufacturers. Ecology concurred with the Committee recommendations.

Summary of Bill: Beginning January 1, 2025, in harmony with the timeframe established in the national MOU, the sale of brake pads containing more than 0.5 percent copper is prohibited in Washington. For the purposes of clearing inventory, brake pads manufactured

prior to 2025 are exempt until January 1, 2035. Brake pads manufactured as part of original service equipment contract for vehicles manufactured prior to January 1, 2025, are exempt.

The specific authority for Ecology to adopt rules to implement a ban on brake pads with 0.5 percent copper and its compounds by weight is eliminated. Ecology may not adopt rules that exceed the explicit statutorily established requirements.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This bill will harmonize dates with the national standards. It streamlines the rules and provides certainty and clarity on the ban of brake pads. This provides more sideboards on the regulation we already have. It exempts cars that are already on the road. This is a model process that got all the groups together to work with one another.

Persons Testifying: PRO: Representative Beth Doglio, Prime Sponsor; Ryan Spiller, Auto Alliance; Holly Davies, Ecology.

Persons Signed In To Testify But Not Testifying: No one.