1169 AMH PETE KESL 198

**HB 1169** - H AMD **369**

By Representative Peterson

**ADOPTED 03/13/2019**

 Strike everything after the enacting clause and insert the following:

 "NEW SECTION. **Sec. 1.** A new section is added to chapter 52.30 RCW to read as follows:

 (1) A fire service jurisdiction is entitled to recover from any liable party the reasonable costs associated with the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to an incident on private or public property, including public roadways. A liable party must submit the reasonable costs from the jurisdiction or its designee, for the jurisdiction’s cleanup or removal services, to any insurer that provides the coverage for property damage in which they become legally obligated or responsible for causing. If a liable party does not submit the invoice or bill for the reasonable costs received from the jurisdiction or its designee to their insurer within fourteen days of receipt of an invoice or bill, then the jurisdiction or its designee may directly submit the claim to the liable party’s insurer for consideration of policy coverage. If coverage is found within a liable party’s insurance policy, the insurer may issue payment directly to the jurisdiction and apply the claim expense to the policy’s limit of liability. If there are multiple liable partiesinvolved, the jurisdiction may only recover the proportional amount of liability legally determined for each party. The jurisdiction may not recover from any one liable party, or all liable parties combined, more than the actual costs incurred with the cleanup and removal of the hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to an incident on private or public property, including public roadways.

 (2) For the purposes of this section, the following definitions apply:

 (a) “Incident” means an unplanned, unintentional action or situation and that necessitates a fire service jurisdiction response, including but not limited to a motor vehicle accident, hazardous material spill, unauthorized burn, boating accident, or airplane crash.

(b) “Insurer” means the same as defined in RCW 48.01.050.

(c) “Vehicle” means any mode of transportation operated by a liable party and involved in an incident, including but not limited to automobiles, trucks, boats, aircraft, trains, and motorbikes.

(d) “Liable party” means a person or entity that is legally obligated or responsible for causing an incident.

(e) “Fire service jurisdiction” or “jurisdiction” means a fire protection district or regional fire protection service authority.

 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.103 RCW to read as follows:

 (1) A municipal fire department, or department, is entitled to recover from any liable party the reasonable costs associated with the cleanup or removal of hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to an incident on private or public property, including public roadways. A liable party must submit the reasonable costs from the department or its designee, for the department’s cleanup or removal services, to any insurer that provides the coverage for property damage in which they become legally obligated or responsible for causing. If a liable party does not submit the invoice or bill for the reasonable costs received from the department or its designee to their insurer within fourteen days of receipt of an invoice or bill, then the department or its designee may directly submit the claim to the liable party’s insurer for consideration of policy coverage. If coverage is found within a liable party’s insurance policy, the insurer may issue payment directly to the department and apply the claim expense to the policy’s limit of liability. If there are multiple liable partiesinvolved, the department may only recover the proportional amount of liability legally determined for each party. The department may not recover from any one liable party, or all liable parties combined, more than the actual costs incurred with the cleanup and removal of the hazardous waste and other hazardous materials, including debris or vehicle operating fluids, when responding to an incident on private or public property, including public roadways.

(2) For the purposes of this section, the following definitions apply:

 (a) “Incident” means an unplanned, unintentional action or situation and that necessitates a fire service jurisdiction response, including but not limited to a motor vehicle accident, hazardous material spill, unauthorized burn, boating accident, or airplane crash.

(b) “Insurer” means the same as defined in RCW 48.01.050.

(c) “Vehicle” means any mode of transportation operated by a liable party and involved in an incident, including but not limited to automobiles, trucks, boats, aircraft, trains, and motorbikes.

(d) “Liable party” means a person or entity that is legally obligated or responsible for causing an incident."

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|  |  EFFECT:  Makes the following changes to the process used for a fire service jurisdiction or department's recovery of costs associated with cleanup or removal:* Requires the liable party to submit the reasonable costs to any insurer that provides coverage for property damage the liable party is responsible for causing.
* Allows the fire service jurisdiction or department to submit the bill or invoice directly to the liable party's insurance company if the liable party does not submit the bill or invoice to its insurance company within fourteen days.
* Clarifies that the insurance company may issue payment directly to the fire service jurisdiction or department if coverage is available.
* Clarifies the costs will be proportionally charged if there is more than one liable party.
* Removes language related to extraordinary costs and claims which exceed the insured party's policy limit.
* Adds definitions for terms "incident," "insurer," "vehicle," "liable party," and "fire service jurisdiction."
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