S-1458.2

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**SUBSTITUTE SENATE BILL 5579**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Braun and L. Wilson)

AN ACT Relating to expanding the department of ecology's authority to refrain from enforcing certain provisions of chapter 70A.60 RCW to mitigate the effects of supply chain problems or other similar disruptions; amending RCW 70A.60.060; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that recent supply chain problems have made it difficult for Washington businesses to access products that comply with the standards established in chapter 70A.60 RCW, relating to hydrofluorocarbons. The legislature further finds that providing additional enforcement flexibility to the department of ecology is a solution that will help keep businesses from experiencing supply chain problems when compliant products are unavailable. The legislature concludes that this additional flexibility will benefit businesses and consumers alike.

**Sec.**  RCW 70A.60.060 and 2021 c 315 s 7 are each amended to read as follows:

(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Washington if that equipment or product consists of, uses, or will use a substitute, as set forth in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines established in subsection (2) of this section. Except where existing equipment is retrofit, nothing in this subsection requires a person that acquired a restricted product or equipment prior to the effective date of the restrictions in subsection (2) of this section to cease use of that product or equipment. Products or equipment manufactured prior to the applicable effective date of the restrictions specified in subsection (2) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(2) The restrictions under subsection (1) of this section for the following products and equipment identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, take effect beginning:

(a) January 1, 2020, for:

(i) Propellants;

(ii) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board, and bunstock;

(iii) Supermarket systems, remote condensing units, and stand-alone units;

(b) January 1, 2021, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

(iii) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

(c) January 1, 2022, for:

(i) Residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products; and

(ii) Vending machines;

(d) January 1, 2023, for cold storage warehouses;

(e) January 1, 2023, for built-in residential consumer refrigeration products;

(f) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2020, or the effective date of the restrictions identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available;

(b) Prohibit the use of a substitute if the department determines that the prohibition reduces the overall risk to human health or the environment and that a lower risk substitute is currently or potentially available;

(c)(i) Adopt a list of approved substitutes, use conditions, or use limits, if any; and

(ii) Add or remove substitutes, use conditions, or use limits to or from the list of approved substitutes if the department determines those substitutes reduce the overall risk to human health and the environment; and

(d) Designate acceptable uses of hydrofluorocarbons for medical uses that are exempt from the requirements of subsection (2) of this section.

(4) The department shall adopt rules requiring that manufacturers disclose the substitutes used in their products or equipment or to disclose the compliance status of their products or equipment. That disclosure must take the form of:

(a) A label on the equipment or product. The label must meet requirements designated by the department by rule. To the extent feasible, the department must recognize existing labeling that provides sufficient disclosure of the use of substitutes in the product or equipment or of the compliance status of the products or equipment.

(i) The department must consider labels required by state building codes and other safety standards in its rule making; and

(ii) The department may not require labeling of aircraft and aircraft components subject to certification requirements of the federal aviation administration.

(b) Submitting information about the use of substitutes to the department, upon request.

(i) By December 31, 2019, all manufacturers must notify the department of the status of each product class utilizing hydrofluorocarbons or other substitutes restricted under subsection (1) of this section that the manufacturer sells, offers for sale, leases, installs, or rents in Washington state. This status notification must identify the substitutes used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within ((~~one hundred twenty~~)) 120 days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

(iii) After the effective date of a restriction put in place under this section, any manufacturer must provide an updated status notification when the manufacturer introduces a new or modified product or piece of equipment that uses hydrofluorocarbons or changes the type of hydrofluorocarbons utilized within a product class affected by a restriction. Such a notification must occur within ((~~one hundred twenty~~)) 120 days of the introduction into commerce in Washington of the product or equipment triggering this notification requirement.

(c) Alternative disclosure requirements to (a) of this subsection, if the department determines that the inclusion of a label denoting substitutes used or compliance status is not feasible for a particular product or equipment.

(5) The department may adopt rules to administer, implement, and enforce this section, including rules that establish a process and criteria for granting variances from the requirements of this section if the department determines that supply chain problems impair the ability of persons to comply with the requirements of this section. If the department elects to adopt rules, the department must seek, where feasible and appropriate, to adopt rules, including rules under subsection (4) of this section, that are the same or consistent with the regulatory standards, exemptions, reporting obligations, disclosure requirements, and other compliance requirements of other states or the federal government that have adopted restrictions on the use of hydrofluorocarbons and other substitutes. Prior to the adoption or update of a rule under this section, the department must identify the sources of information it relied upon, including peer-reviewed science.

(6) For the purposes of implementing the restrictions specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017, consistent with this section, the department must interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance, overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

(7) Except where existing equipment is retrofit, the restrictions of this section do not apply to or limit any use of commercial refrigeration equipment that was installed or in use prior to the effective date of the restrictions established in this section.

**--- END ---**