

HOUSE BILL REPORT

2SHB 1551

As Passed House:
February 13, 2024

Title: An act relating to reducing lead in cookware.

Brief Description: Reducing lead in cookware.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Pollet, Doglio, Fitzgibbon, Berry, Gregerson, Fosse and Bateman).

Brief History:

Committee Activity:

Environment & Energy: 1/31/23, 2/13/23 [DPS];
Appropriations: 2/3/24, 2/5/24 [DP2S(w/o sub ENVI)].

Floor Activity:

Passed House: 2/13/24, 97-0.

Brief Summary of Second Substitute Bill

- Restricts the manufacture, distribution, and sale of cookware containing lead at a level exceeding 5 parts per million (ppm) in the cookware or any component of the cookware.
- Authorizes the Department of Ecology (Ecology), in consultation with the Department of Health, to lower the 5 ppm limit, beginning in 2035, if determined to be feasible for manufacturers to achieve and necessary to protect human health.
- Authorizes Ecology to adopt rules, and prescribes penalties for violations of up to \$5,000 for an initial violation and \$10,000 for subsequent violations.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Couture, Duerr, Fey, Goehner, Lekanoff, Ramel, Slatter and Street.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Dan Jones (786-7118).

Background:

Persistent, Bioaccumulative Toxins.

In 2006 the Department of Ecology (Ecology) adopted a rule under state hazardous waste laws outlining the processes it follows for efforts to reduce and phase out the uses, releases, and exposures to persistent, bioaccumulative toxins (PBTs). Persistent, bioaccumulative toxins are substances with toxic or harmful effects on people or animals that have a lengthy decomposition time in the environment and accumulate up the food chain in the bodies of organisms, including people. The PBT rule authorizes Ecology to develop a list of PBT substances which can include all types of PBT chemicals or metals, except fertilizers and pesticides regulated under the federal Insecticide, Fungicide, and Rodenticide Act. This PBT list is used to inform various Ecology activities, including monitoring, voluntary PBT phase-out and use-reduction efforts, and PBT public awareness activities. There are currently 18 individual chemicals and eight groups of chemicals on Ecology's PBT list, creating a total list of 74 PBT chemicals.

Ecology also uses the PBT list to identify and prioritize candidates for the development of chemical action plans (CAPs). In developing a CAP, Ecology works with an external advisory committee to evaluate the chemical's uses, releases, impacts, and management. The CAP process concludes with the issuance of a report with recommendations for how to reduce or manage certain uses of the PBT and encourage safer alternatives to the PBT. Chemical action plan processes have been initiated or completed for a number of chemical groups. A CAP for lead was completed in 2009.

Safer Products for Washington.

As a result of legislation enacted in 2019, Ecology implements an administrative process that can result in the regulation of priority chemicals in priority consumer products. The program that Ecology implements in consultation with the Department of Health to carry out this process is known as the Safer Products for Washington Program. Under this process, certain chemicals were defined as priority chemicals. Ecology is also authorized to designate additional chemicals as priority chemicals every five years if the chemicals meet qualifying criteria, consistent with a schedule established in the 2019 law. This process may result in Ecology restricting a priority chemical in a priority consumer product, after the adoption of rules.

Regulation of Lead in Consumer Products.

State law restricts lead in various consumer products:

- Under the Children's Safe Products Act, lead is restricted in children's products at a level of 40 parts per million (ppm).
- Lead wheel weights must be replaced with environmentally preferred wheel weights whenever tires are replaced or rebalanced.
- Concentrations of lead, cadmium, mercury, and hexavalent chromium must not exceed a sum of 100 ppm in a package or packaging component.

Other state programs related to lead in the environment include provisions related to the recycling of lead-acid vehicle batteries, certification programs for persons performing lead-based paint abatement, and programs to limit the presence of lead in drinking water.

Pollution Control Hearings Board.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review. Penalties appealable to the PCHB must generally be imposed following standard general protocols, including that the penalty must be accompanied by a notice in writing describing the violation, and specifying when the penalty must be appealed or else becomes due and payable. With some exceptions, penalties that are appealable to the PCHB are credited to the State General Fund.

Summary of Second Substitute Bill:

Beginning January 1, 2026:

- Manufacturers and wholesalers may not manufacture, distribute, or sell or offer for sale cookware or cookware components containing lead or lead compounds at a level exceeding 5 parts per million (ppm).
- Retailers may not knowingly sell or knowingly offer for sale cookware or cookware components containing lead or lead compounds at a level exceeding 5ppm.

These restrictions do not apply to sales of previously owned cookware in casual and isolated

sales or by nonprofit organizations. After December 2034 the Department of Ecology (Ecology), in consultation with the Department of Health, may lower the 5 ppm limit by rule if Ecology determines that a lower limit is feasible for cookware and cookware component manufacturers to achieve, and is necessary to protect human health, including the health of vulnerable populations.

Ecology may adopt rules pertaining to implementation, administration, and enforcement of restrictions on lead in cookware. Violations of requirements, rules, or orders are subject to civil penalties of up to \$5,000 for each violation for an initial offense, and \$10,000 for each repeat offense. Penalties and orders are appealable to the Pollution Control Hearings Board, and penalty collections are deposited into the Model Toxics Control Account.

A severability clause is included.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 12, 2024.

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

Staff Summary of Public Testimony (Environment & Energy):

(In support) King County's Hazardous Waste Program has identified concerning levels of lead in cookware, especially cookware used by specific immigrant populations that are brought from their country of origin. In particular, pressure cookers, woks, and aluminum pots have been found with high levels of lead. Cookware available online and purchased locally was subsequently tested, and some items were also found to have concerning levels of lead. Lead is a known neurotoxin and human health hazard, and is dangerous to children at low levels. There is not a safe level of lead exposure. Education of at-risk populations should be paired with restrictions that remove dangerous items from commerce.

(Opposed) None.

(Other) The departments of Ecology and Health support the concept for this bill, but the bill would have costs that are not included in the Governor's budget. Lead is known to cause brain damage and other health effects, and exposure is not safe at any level. State laws restrict lead in other consumer products. Lead in cookware can expose both the person cooking and the consumer of cooked food. The Department of Ecology (Ecology) has the ability to test for lead at a level of 10 parts for million (ppm) using existing testing methods, but might be able to feasibly test for lead content at a level of 5 ppm in the future. Until test methods improve, enforcement by Ecology would likely occur at a level of 10 ppm. The Department of Health's focus on refugee and immigrant health has included specific outreach to the Afghan communities that have been found to have higher levels of lead

exposure relative to other communities. Stainless steel pots and NSF certified aluminum cookware are safer alternatives than regular aluminum cookware.

Staff Summary of Public Testimony (Appropriations):

(In support) Lead is really bad for you, including when it is in your water or food. Your pressure cooker could be infusing lead into your food.

(Opposed) None.

(Other) There are concerns with specific components of the bill, including whether the Department of Ecology (Ecology) would be able to test for lead at 5 parts per million. The authority for Ecology to change the lead limits without notifying retail is concerning. An educational component for retailers would be preferable to fines.

Persons Testifying (Environment & Energy): (In support) Representative Gerry Pollet, prime sponsor; Katie Fellows, King County Hazardous Waste Management Program; Megan Liu, Toxic-Free Future; and Nilu Pedram, Afghan Health Initiative.

(Other) Kimberly Goetz, Department of Ecology; and Holly Davies, Department of Health.

Persons Testifying (Appropriations): (In support) Representative Gerry Pollet, prime sponsor.

(Other) Crystal Leatherman, Washington Retail Association.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.