

HOUSE BILL REPORT

HB 1554

As Reported by House Committee On:
Environment & Energy

Title: An act relating to reducing public health and environmental impacts from lead.

Brief Description: Reducing public health and environmental impacts from lead.

Sponsors: Representatives Doglio, Pollet, Fitzgibbon, Berry, Ramel, Orwall, Ryu, Fosse, Kloba, Macri and Duerr.

Brief History:

Committee Activity:

Environment & Energy: 1/31/23, 2/14/23 [DPS].

Brief Summary of Substitute Bill

- Directs the Department of Transportation (WSDOT) to develop guidance for reducing lead exposures from airport operations, with an initial publication by July 1, 2024, and periodic updates beginning in 2026.
- Requires airport operators to implement a plan to minimize lead exposures based on the WSDOT's guidance beginning November 1, 2024, or four months after the publication of the WSDOT's guidance, and to develop a plan and budget to finance aircraft fueling infrastructure improvements to allow for the supply of unleaded aviation gasoline.
- Directs The Department of Ecology (Ecology) and local air authorities to review and approve airport operator plans and to offer technical assistance to airport operators that have not submitted an adequate lead exposure minimization plan or that does not implement its plan.
- Authorizes Ecology to adopt rules to implement, administer, and enforce requirements related to leaded aviation gasoline.
- Prescribes civil penalties for violations of lead exposure minimization plan requirements, directs local air pollution control authorities created

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under the federal Clean Air Act to enforce requirements in areas of Washington where they have jurisdiction, and directs Ecology to enforce requirements in areas of the state without air pollution control authorities.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Doglio, Chair; Mena, Vice Chair; Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Abbarno, Barnard, Couture and Goehner.

Minority Report: Without recommendation. Signed by 1 member: Representative Ybarra, Assistant Ranking Minority Member.

Staff: Jacob Lipson (786-7196).

Background:

State Regulations and Programs Related to Lead.

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 an 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.

Leaded Gasoline.

Under the federal Clean Air Act (FCAA), leaded motor vehicle gasoline was phased out between the 1970s and 1990s. In October 2022 the United States Environmental Protection Agency (EPA) proposed an endangerment determination under the FCAA that would identify emissions of lead that operate on leaded fuel as a contributor to air pollution in a manner that could endanger public health and welfare. This action was the first step in a regulatory process that could eventually lead to restrictions to lead in aviation gas under the FCAA. If the EPA finalizes its proposed endangerment finding, the EPA must then, under

the FCAA, promulgate aircraft engine emission standards for lead, after undertaking a public process, and the Federal Aviation Administration (FAA) would be required to prescribe regulations to ensure compliance with these emissions standards, and to prescribe standards for aircraft fuel to control or eliminate lead emissions.

The FAA and industry partners have announced an Eliminate Aviation Gasoline Lead Emissions (EAGLE) initiative to eliminate the use of leaded aviation fuel by the end of 2030. Under the EAGLE initiative, the FAA has published recommendations related to short-term measures that airports may take to reduce or minimize potential exposures to aircraft lead emissions. However, the FAA policies also have the effect of requiring that airports continue to offer leaded aviation gas as a condition of grants made to federally obligated airports that receive such grants, unless the FAA approves a proposed restriction that is justified and not unreasonable or unjustly discriminatory. Under a 2018 federal budget proviso, the National Academies of Sciences, Engineering, and Medicine (NASEM) published a 2021 assessment of leaded aviation gasoline, including existing non-leaded fuel alternatives, ambient lead concentrations near airports where piston-powered general aviation aircraft are used, and mitigation measures to reduce ambient lead concentrations. The NASEM report included recommendations related to increasing the size of run-up areas used at general aviation airports, relocating run-up areas, and making other operational changes at airports to reduce lead exposures.

Clean Air Act Implementation in Washington.

The Department of Ecology (Ecology) and seven local air pollution control authorities have each received approval from the EPA to administer aspects of the FCAA in Washington. Local clean air agencies have primary responsibility for administering the state and FCAA in counties which have elected to activate a local air authority or to form a multicounty air authority; in other areas of the state, Ecology is responsible for administering state and FCAA programs.

Department of Health Blood Lead Testing Guidance.

The Department of Health (DOH) recommends that healthcare providers screen children at 12 and 24 months of age to assess levels of lead in their blood, based on specified risk factors, including if a child lives in a house built before 1950, is known to have a sibling or frequent playmate with an elevated blood lead level, or has a parent or caregiver who works professionally or recreationally with lead. The DOH additionally recommends that healthcare providers consider blood lead testing on children per the healthcare provider's clinical judgment, based on factors including whether the child lives within a kilometer of an airport or lead emitting industry.

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 Substitute Bill:

Lead Exposure Reduction Guidance and Plans.

The Department of Transportation (WSDOT), in consultation with the Department of Ecology (Ecology) must develop simple guidance that can quickly and easily be implemented by airport operators to minimize public health and environmental exposures to lead from airport operations. The WSDOT must publish initial guidance to airport operators by July 1, 2024, and update its review and guidance by July 1, 2026. The WSDOT's guidance must be based on the 2021 consensus study report from the National Academies of Sciences, Engineering, and Medicine related to options for reducing lead exposure from piston-engine aircraft, and include three high-priority actions:

- increasing the distance between run-up areas and public areas on or off the airport, and increasing the size of run-up areas;
- eliminating cast-off of leaded aviation gasoline; and
- establishing standardized time limits on airport engine run-up and idling.

The WSDOT's guidance may also address other lead exposure minimization actions.

By November 1, 2024, or four months after the publication of the WSDOT's guidance, airport operators at which leaded aviation gasoline is sold must begin implementing, and submit to Ecology or a local air authority in areas of Washington where an authority has been activated, a plan to implement the WSDOT's guidance. Airport operator plans must be updated by November 1 following any updates to the WSDOT's guidance. Airport operator lead exposure minimization plans must include:

- a description of how the airport will implement the operational and logistical recommendations in the WSDOT's guidance; and
- a plan and budget for financing of any needed fueling infrastructure improvements to allow the airport to begin supplying unleaded aviation gasoline.

Each airport operator must submit an annual status report to Ecology or a local air authority starting in December 2025.

Other.

Ecology or a local air authority, in consultation with the Department of Health (DOH) and the WSDOT, must offer technical assistance to airport operators that do not submit adequate lead plans or do not implement their plans in the manner described. Ecology may adopt rules to implement and enforce leaded aviation gas restrictions and leaded aviation gas exposure airport plans. Ecology must enforce requirements in areas of Washington where a

local air pollution control authority has not been activated, and air pollution control authorities must enforce requirements in areas within their jurisdiction. Violations are subject to penalties of up to \$10,000 per day for violations, and penalty amounts may take into consideration the proximity of an airport to Ecology-identified overburdened communities or vulnerable populations. Penalties are appealable to the Pollution Control Hearings Board.

The DOH must update its blood lead testing guidance for health care providers related to children living near airports at which aviation gasoline is used. The update must include children at risk of lead exposure due to airport operations among the high-risk populations broadly recommended for a blood lead test. The DOH must provide outreach to healthcare providers about the updated guidance.

A severability clause is included.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- eliminates the restrictions on the sale of leaded aviation gasoline;
- directs the Department of Transportation (WSDOT) to develop simple guidance that can easily and quickly be implemented by airport operators to minimize lead exposures, with priority given to actions capable of being implemented in the short-term;
- requires the lead exposure guidance to be based on a 2021 National Academies of Science, Engineering, and Medicine report, rather than requiring a wider analysis of other best practices;
- requires the guidance to include three specific high priority actions for airport operators to expeditiously implement: (1) increasing the distance between run-up areas and public areas; (2) eliminating cast-off of leaded aviation gasoline; and (3) establishing standardized time limits on airport engine run-up and idling, while making other guidance components discretionary for the WSDOT to include;
- provides that an airport is not required to begin implementing initial guidance until four months after the WSDOT's guidance is published, if published later than July 1, 2024;
- requires airport operators that must develop and implement a plan based on the WSDOT's guidance to submit that plan to the Department of Ecology or the activated local air authority, in areas in which one exists;
- requires airport operator plans related to lead exposure to include a description of how the airport operators ensure users adhere to standards established to reduce environmental and public health exposures to lead;
- eliminates the requirement that airport operator plans include a plan to include unleaded infrastructure at the airport by a specific date;
- authorizes an airport operator to temporarily suspend the implementation of the guidance in the event of an emergency;

- increases the penalty to airport operators to \$10,000 per day of continued noncompliance that takes effect 30 days after an offer of technical assistance by state agencies is made to the airport operator; and
- requires the Department of Health to update its blood lead testing guidance for children living near airports, but without establishing a specific requirement as to which populations must be screened for blood lead exposure, and to require the Department of Health conduct outreach with and information to healthcare providers about the updated guidance.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) Lead is harmful to children. Lead has been phased out of most gasoline and many other products, but some aircraft continue to use leaded gasoline. Studies have shown elevated blood lead levels in populations living near airports with high volumes of airplanes that use leaded aviation gasoline. Aviation gasoline accounts for a significant portion of the airborne lead in King County. Airports are significant sources of lead. Areas near airports tend to be heavily burdened by a number of environmental harms, including noise pollution and other types of air pollution. The area surrounding King County International Airport is heavily comprised of people of color. Reducing lead in aviation gasoline is an equity issue. Persons living in areas near King County International Airport have a significantly shorter life expectancy than persons living in neighborhoods further from the airport. The federal government is beginning to address the issue of lead in aviation gasoline, but progress has been slow, and the state needs to supplement federal activity by taking its own lead reduction actions.

(Opposed) Everyone wants to see lead eliminated from aviation gasoline. However, the phase-out contemplated in this bill is premature relative to the status of efforts to move to unleaded aviation gasoline fuel, and the lack of availability of such fuel that can be used by aircraft that rely on leaded aviation gasoline. Phasing out leaded aviation gasoline and the approaches to reduce lead exposures from airports would create a financial and administrative burden on airports. Pilots would need to take risks in order to find the aviation gas that their planes need. Some ports are beginning to transition to unleaded gasoline, but it is not yet a solution for all aircraft that use Washington airports. Aircraft that use leaded aviation gas are needed for many socially beneficial purposes, including flights by the Washington State Patrol and humanitarian volunteer flights. Taxes on aviation fuel are not currently being spent by Washington on aviation uses, and could be re-

directed to support lead reduction efforts.

(Other) The Departments of Ecology and Health support the intent of the bill to protect children from lead exposure. Reducing the harms caused by lead in aviation gasoline will require a number of different coordinated efforts. The costs to implement the leaded aviation gas phase-out and the development of lead exposure mitigation guidance are not in the Governor's budget. The Department of Transportation is concerned about the timing of the implementation of the phase-out of leaded aviation gasoline at Washington airports. Unleaded aviation gasoline is making inroads, but is not yet in widespread production. The Department of Transportation operates a plane that relies on leaded aviation gasoline.

Persons Testifying: (In support) Representative Beth Doglio, prime sponsor; Christian Poulsen, Duwamish River Community Coalition; Lisa Rivera Smith; Velma Veloria; Sameth Mell and Holly Krejci, King County International Airport Community Coalition; Ali Lee; Brandon Bowersox-Johnson; Jeffry Berner; Shirlee Tan, Seattle and King County Public Health Department; Ursula Euler; and Tim Gould.

(Opposed) Brad Schuster, Aircraft Owners and Pilots Association; Warren Hendrickson and John Dobson, Washington State Aviation Alliance; Chris Herman, Washington Public Ports Association; and Stephen Ratzlaff, Friends of Boeing Field.

(Other) Holly Davies, Department of Health; Adam Eitmann, Department of Ecology; and Eric Johnson, Department of Transportation.

Persons Signed In To Testify But Not Testifying: None.