
SUBSTITUTE HOUSE BILL 1551

State of Washington

68th Legislature

2023 Regular Session

By House Environment & Energy (originally sponsored by Representatives Pollet, Doglio, Fitzgibbon, Berry, Gregerson, Fosse, and Bateman)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to reducing lead in cookware; amending RCW
2 43.21B.110 and 43.21B.300; adding a new chapter to Title 70A RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Cookware" means any metal pots, pans, bakeware, rice
9 cookers, pressure cookers, and other containers and devices intended
10 for the preparation or storage of food.

11 (2) "Component" includes separate or distinct parts of the
12 cookware including, but not limited to, accessories such as lids,
13 knobs, handles and handle assemblies, rivets, fasteners, valves, and
14 vent pipes.

15 (3) "Department" means the Washington state department of
16 ecology.

17 (4) "Manufacturer" means any person, firm, association,
18 partnership, corporation, governmental entity, organization, or joint
19 venture that produces a product or is an importer or domestic
20 distributor of a product sold or offered for sale in or into the
21 state.

1 (5) "Vulnerable populations" has the same meaning as defined in
2 RCW 70A.02.010.

3 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2025, no
4 manufacturer or wholesaler may manufacture, sell, offer for sale,
5 distribute for sale, or distribute for use in this state cookware or
6 a cookware component containing lead or lead compounds at a level of
7 more than five parts per million.

8 (2)(a) Beginning January 1, 2025, no retailer may knowingly sell
9 or knowingly offer for sale for use in this state cookware or a
10 cookware component containing lead or lead compounds at a level of
11 more than five parts per million.

12 (b) Retailers who unknowingly sell products that are restricted
13 from sale under this chapter are not liable under this chapter.

14 (c) The sale or purchase of any previously owned cookware or
15 cookware components containing lead made in casual or isolated sales
16 as defined in RCW 82.04.040, or by a nonprofit organization, is
17 exempt from this chapter.

18 (3) The department, in consultation with the department of
19 health, may lower the five part per million limit established in
20 subsection (1) of this section by rule if it determines that the
21 lower limit is:

22 (a) Feasible for cookware and cookware component manufacturers to
23 achieve; and

24 (b) Necessary to protect human health, including the health of
25 vulnerable populations.

26 NEW SECTION. **Sec. 3.** (1) The department may adopt rules as
27 necessary for the purpose of implementing, administering, and
28 enforcing this chapter.

29 (2) A person violating a requirement of this chapter, a rule
30 adopted under this chapter, or an order issued under this chapter, is
31 subject to a civil penalty not to exceed \$5,000 for each violation in
32 the case of a first offense. Repeat violations are subject to a civil
33 penalty not to exceed \$10,000 for each repeat offense.

34 (3) Any penalty provided for in this section, and any order
35 issued by the department under this chapter, may be appealed to the
36 pollution control hearings board.

1 (4) All penalties collected under this chapter shall be deposited
2 in the model toxics control operating account created in RCW
3 70A.305.180.

4 **Sec. 4.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to
5 read as follows:

6 (1) The hearings board shall only have jurisdiction to hear and
7 decide appeals from the following decisions of the department, the
8 director, local conservation districts, the air pollution control
9 boards or authorities as established pursuant to chapter 70A.15 RCW,
10 local health departments, the department of natural resources, the
11 department of fish and wildlife, the parks and recreation commission,
12 and authorized public entities described in chapter 79.100 RCW:

13 (a) Civil penalties imposed pursuant to RCW 18.104.155,
14 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
15 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
16 70A.65.200, 70A.455.090, section 3 of this act, 76.09.170, 77.55.440,
17 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
18 90.56.330, and 90.64.102.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
21 70A.245.020, 70A.65.200, section 3 of this act, 86.16.020, 88.46.070,
22 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

23 (c) Except as provided in RCW 90.03.210(2), the issuance,
24 modification, or termination of any permit, certificate, or license
25 by the department or any air authority in the exercise of its
26 jurisdiction, including the issuance or termination of a waste
27 disposal permit, the denial of an application for a waste disposal
28 permit, the modification of the conditions or the terms of a waste
29 disposal permit, or a decision to approve or deny an application for
30 a solid waste permit exemption under RCW 70A.205.260.

31 (d) Decisions of local health departments regarding the grant or
32 denial of solid waste permits pursuant to chapter 70A.205 RCW.

33 (e) Decisions of local health departments regarding the issuance
34 and enforcement of permits to use or dispose of biosolids under RCW
35 70A.226.090.

36 (f) Decisions of the department regarding waste-derived
37 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
38 decisions of the department regarding waste-derived soil amendments
39 under RCW 70A.205.145.

1 (g) Decisions of local conservation districts related to the
2 denial of approval or denial of certification of a dairy nutrient
3 management plan; conditions contained in a plan; application of any
4 dairy nutrient management practices, standards, methods, and
5 technologies to a particular dairy farm; and failure to adhere to the
6 plan review and approval timelines in RCW 90.64.026.

7 (h) Any other decision by the department or an air authority
8 which pursuant to law must be decided as an adjudicative proceeding
9 under chapter 34.05 RCW.

10 (i) Decisions of the department of natural resources, the
11 department of fish and wildlife, and the department that are
12 reviewable under chapter 76.09 RCW, and the department of natural
13 resources' appeals of county, city, or town objections under RCW
14 76.09.050(7).

15 (j) Forest health hazard orders issued by the commissioner of
16 public lands under RCW 76.06.180.

17 (k) Decisions of the department of fish and wildlife to issue,
18 deny, condition, or modify a hydraulic project approval permit under
19 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
20 comply, to issue a civil penalty, or to issue a notice of intent to
21 disapprove applications.

22 (l) Decisions of the department of natural resources that are
23 reviewable under RCW 78.44.270.

24 (m) Decisions of an authorized public entity under RCW 79.100.010
25 to take temporary possession or custody of a vessel or to contest the
26 amount of reimbursement owed that are reviewable by the hearings
27 board under RCW 79.100.120.

28 (n) Decisions of the department of ecology that are appealable
29 under RCW 70A.245.020 to set recycled minimum postconsumer content
30 for covered products or to temporarily exclude types of covered
31 products in plastic containers from minimum postconsumer recycled
32 content requirements.

33 (o) Orders by the department of ecology under RCW 70A.455.080.

34 (2) The following hearings shall not be conducted by the hearings
35 board:

36 (a) Hearings required by law to be conducted by the shorelines
37 hearings board pursuant to chapter 90.58 RCW.

38 (b) Hearings conducted by the department pursuant to RCW
39 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
40 70A.15.3110, and 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110
2 and 90.44.220.

3 (d) Hearings conducted by the department to adopt, modify, or
4 repeal rules.

5 (3) Review of rules and regulations adopted by the hearings board
6 shall be subject to review in accordance with the provisions of the
7 administrative procedure act, chapter 34.05 RCW.

8 **Sec. 5.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to
9 read as follows:

10 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
11 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
12 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 3 of this
13 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
14 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
15 a notice in writing, either by certified mail with return receipt
16 requested or by personal service, to the person incurring the penalty
17 from the department or the local air authority, describing the
18 violation with reasonable particularity. For penalties issued by
19 local air authorities, within 30 days after the notice is received,
20 the person incurring the penalty may apply in writing to the
21 authority for the remission or mitigation of the penalty. Upon
22 receipt of the application, the authority may remit or mitigate the
23 penalty upon whatever terms the authority in its discretion deems
24 proper. The authority may ascertain the facts regarding all such
25 applications in such reasonable manner and under such rules as it may
26 deem proper and shall remit or mitigate the penalty only upon a
27 demonstration of extraordinary circumstances such as the presence of
28 information or factors not considered in setting the original
29 penalty.

30 (2) Any penalty imposed under this section may be appealed to the
31 pollution control hearings board in accordance with this chapter if
32 the appeal is filed with the hearings board and served on the
33 department or authority 30 days after the date of receipt by the
34 person penalized of the notice imposing the penalty or 30 days after
35 the date of receipt of the notice of disposition by a local air
36 authority of the application for relief from penalty.

37 (3) A penalty shall become due and payable on the later of:

38 (a) Thirty days after receipt of the notice imposing the penalty;

1 (b) Thirty days after receipt of the notice of disposition by a
2 local air authority on application for relief from penalty, if such
3 an application is made; or

4 (c) Thirty days after receipt of the notice of decision of the
5 hearings board if the penalty is appealed.

6 (4) If the amount of any penalty is not paid to the department
7 within 30 days after it becomes due and payable, the attorney
8 general, upon request of the department, shall bring an action in the
9 name of the state of Washington in the superior court of Thurston
10 county, or of any county in which the violator does business, to
11 recover the penalty. If the amount of the penalty is not paid to the
12 authority within 30 days after it becomes due and payable, the
13 authority may bring an action to recover the penalty in the superior
14 court of the county of the authority's main office or of any county
15 in which the violator does business. In these actions, the procedures
16 and rules of evidence shall be the same as in an ordinary civil
17 action.

18 (5) All penalties recovered shall be paid into the state treasury
19 and credited to the general fund except those penalties imposed
20 pursuant to RCW 18.104.155, which shall be credited to the
21 reclamation account as provided in RCW 18.104.155(7), RCW
22 70A.15.3160, the disposition of which shall be governed by that
23 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
24 to the recycling enhancement account created in RCW 70A.245.100, RCW
25 70A.300.090 and section 3 of this act, which shall be credited to the
26 model toxics control operating account created in RCW 70A.305.180,
27 RCW 70A.65.200, which shall be credited to the climate investment
28 account created in RCW 70A.65.250, RCW 90.56.330, which shall be
29 credited to the coastal protection fund created by RCW 90.48.390, and
30 RCW 70A.355.070, which shall be credited to the underground storage
31 tank account created by RCW 70A.355.090.

32 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act
33 constitute a new chapter in Title 70A RCW.

34 NEW SECTION. **Sec. 7.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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