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**HOUSE BILL 1554**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Doglio, Pollet, Fitzgibbon, Berry, Ramel, Orwall, Ryu, Fosse, Kloba, Macri, and Duerr

Read first time 01/24/23. Referred to Committee on Environment & Energy.

1 AN ACT Relating to reducing public health and environmental  
2 impacts from lead; amending RCW 43.21B.110 and 43.21B.300; adding a  
3 new section to chapter 43.70 RCW; adding a new section to chapter  
4 70A.15 RCW; adding a new chapter to Title 70A RCW; prescribing  
5 penalties; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that even though  
8 lead is a widely recognized hazard to human health and to the  
9 environment, and leaded motor vehicle gasoline was phased out across  
10 the United States decades ago, leaded gasoline remains in widespread  
11 use at general aviation airports by piston engine noncommercial  
12 aircraft. Recent studies have found elevated levels of lead in the  
13 blood of residents, and particularly worryingly in the blood of  
14 children residing in general aviation airport communities, for whom  
15 lead is especially harmful to their development. There is consensus  
16 among the medical and scientific communities that the levels detected  
17 in children living around general airports similar to those in  
18 Washington are hazardous. The national academies of sciences,  
19 engineering, and medicine in 2015 concluded that lead "is a well-  
20 known air pollutant that can lead to a variety of adverse health

1 impacts, including neurological effects in children that lead to  
2 behavioral problems, learning deficits, and lowered IQ."

3 (2) The United States environmental protection agency has  
4 recently taken steps towards making an endangerment finding that may  
5 eventually lead, through a complex federal regulatory process  
6 involving the United States federal aviation administration, to the  
7 elimination of lead from aviation gasoline. That unfolding federal  
8 process is too slow to adequately protect those currently living near  
9 general aviation airports from the harms of lead.

10 (3) Therefore, it is the intent of the legislature to phase out  
11 the use of leaded aviation gasoline at airports in Washington, to  
12 take steps to mitigate public health and environmental harms caused  
13 by the use of leaded gasoline at airports, and to expedite the  
14 transition to the use of unleaded aviation gasoline.

15 NEW SECTION. **Sec. 2.** The definitions in this section apply  
16 throughout this chapter unless the context clearly requires  
17 otherwise.

18 (1) "Airport" has the same meaning as defined in RCW 47.68.020.

19 (2) "Airport operator" means a county, city, government agency,  
20 port district, or other person that owns or operates an airport.

21 (3) "Aviation gasoline" means gasoline sold for use in an  
22 aircraft.

23 (4) "Aviation retail establishment" means any public or private  
24 entity who sells aviation gasoline or offers or otherwise makes  
25 available aviation gasoline to a customer, including other businesses  
26 or government entities, for use in this state.

27 (5) "Department" means the department of ecology.

28 (6) "Leaded aviation gasoline" means aviation gasoline to which  
29 lead has been intentionally added.

30 (7) "Unleaded aviation gasoline" means aviation gasoline to which  
31 no lead has been intentionally added.

32 NEW SECTION. **Sec. 3.** (1) Airport operators and aviation retail  
33 establishments are prohibited from selling, distributing, or  
34 otherwise making available to consumers leaded aviation gasoline  
35 consistent with the timeline specified in subsection (2) of this  
36 section.

37 (2) The prohibitions on leaded aviation gasoline specified in  
38 subsection (1) of this section take effect:

1 (a) January 1, 2026, for airports and aviation retail  
2 establishments located:

3 (i) On or adjacent to a site identified for remediation under  
4 chapter 70A.305 RCW or under the federal cleanup law, as defined in  
5 RCW 70A.305.020;

6 (ii) In or adjacent to an overburdened community identified by  
7 the department under chapter 70A.02 RCW or an overburdened community  
8 highly impacted by air pollution identified by the department under  
9 RCW 70A.65.020(1); and

10 (iii) Primarily in a city with a population of at least 700,000  
11 as of January 1, 2023, as determined using the population statistics  
12 published by the office of financial management.

13 (b) January 1, 2028, for airports and aviation retail  
14 establishments located within or immediately adjacent to an urban  
15 growth area designated under RCW 36.70A.110.

16 (c) January 1, 2030, for all other airports and aviation retail  
17 establishments.

18 NEW SECTION. **Sec. 4.** (1) The department, in consultation with  
19 the department of health and the department of transportation, must  
20 review available information, including publications by the national  
21 academies of sciences, engineering, and medicine, the United States  
22 environmental protection agency and United States federal aviation  
23 administration, and academic publications, to identify best  
24 management practices for reducing public health and environmental  
25 exposures to lead associated with airport operations. Based on this  
26 review, the department, in consultation with the department of health  
27 and the department of transportation, must publish initial guidance  
28 to airport operators on its website by July 1, 2024, regarding best  
29 airport operating practices to minimize environmental and public  
30 health impacts of lead exposures. The department must update its  
31 review and publish updated guidance under this section by July 1,  
32 2026, and may periodically update its review and guidance thereafter.

33 (2) In developing the guidance under subsection (1) of this  
34 section, the department must consider the inclusion of measures to:

35 (a) Manage run-up practices, including by increasing the distance  
36 between run-up areas and public areas on or off the airport,  
37 increasing the size of run-up areas;

1 (b) Eliminate the cast-off of leaded aviation gasoline and  
2 minimize and mitigate other spills and releases of unexpended leaded  
3 aviation gasoline;

4 (c) Minimize airport employee exposures;

5 (d) Minimize releases of leaded aviation gasoline caused by  
6 refueling and maintenance activities at the airport, including  
7 processes used to store and dispense aviation gasoline at the  
8 airport;

9 (e) Minimize idle time and engine run-up time; and

10 (f) Educate and financially incentivize airport fuel consumers  
11 that have the option to purchase and use unleaded aviation gasoline  
12 at the airport to do so.

13 NEW SECTION. **Sec. 5.** (1) By November 1, 2024, each airport  
14 operator must submit to the department and begin implementing a plan  
15 to implement best practices identified by the national academies of  
16 sciences, engineering, and medicine designed to minimize  
17 environmental impacts and public health risks associated with leaded  
18 aviation gasoline use at general aviation airports. Each airport  
19 operator must update its plan by the November 1st following an  
20 updated publication of the guidance issued under section 4 of this  
21 act. At a minimum, each airport operator must include in its plan:

22 (a) A description of how the airport operator plans to implement  
23 the operational and logistical recommendations contained in the  
24 guidance issued under section 4 of this act; and

25 (b) A plan and budget for the financing of any needed fueling  
26 infrastructure improvements at the airport to allow for the airport  
27 to begin supplying unleaded aviation gasoline by:

28 (i) January 1, 2026, for airports and aviation retail  
29 establishments located:

30 (A) On or adjacent to a site identified for cleanup under chapter  
31 70A.305 RCW or under the federal cleanup law, as defined in RCW  
32 70A.305.020;

33 (B) In or adjacent to an overburdened community identified by the  
34 department under chapter 70A.02 RCW or an overburdened community  
35 highly impacted by air pollution identified by the department under  
36 RCW 70A.65.020(1); and

37 (C) Primarily in a city with a population of at least 700,000 as  
38 of January 1, 2023, as determined using the population statistics  
39 published by the office of financial management;

1 (ii) January 1, 2028, for airports and aviation retail  
2 establishments located within or immediately adjacent to an urban  
3 growth area designated under RCW 36.70A.110;

4 (iii) January 1, 2030, for all other airports and aviation retail  
5 establishments.

6 (2) By December 1, 2025, and each December 1st thereafter, each  
7 airport operator must provide a status report to the department  
8 regarding its implementation of the plan under this section,  
9 including the status of planning and investments to facilitate the  
10 supply of unleaded aviation gasoline at the airport.

11 (3) The requirements of this section do not apply to the operator  
12 of an airport at which leaded aviation gasoline is not sold,  
13 distributed, or otherwise made available. An airport operator at  
14 which leaded aviation gasoline ceases to be sold, distributed, or  
15 otherwise made available must notify the department within 30 days of  
16 the cessation of the use of leaded aviation gasoline at the airport.

17 NEW SECTION. **Sec. 6.** (1) The department, in consultation with  
18 the department of transportation and the department of health, must  
19 offer technical assistance consistent with RCW 43.21A.085 and  
20 43.21A.087 to a person that has not submitted a plan that meets the  
21 requirements of section 5 of this act or that does not implement the  
22 plan submitted to the department under section 5 of this act in the  
23 manner described in the plan.

24 (2) The department may adopt rules to implement, administer, and  
25 enforce the requirements of this section. An air pollution control  
26 authority formed under chapter 70A.15 RCW must enforce the  
27 requirements of this chapter in areas within its jurisdiction and the  
28 department must enforce the requirements of this chapter in areas of  
29 the state in which no air pollution control authority has been formed  
30 under chapter 70A.15 RCW.

31 (3) A person in violation of the requirements of section 3 of  
32 this act is subject to a civil penalty of up to \$1,000 per day in  
33 which restricted fuels were sold, distributed, or supplied.

34 (4) A person who remains in violation of the requirements of  
35 section 5 of this act 30 days after the offer of technical assistance  
36 under subsection (1) of this section is subject to a civil penalty of  
37 up to \$1,000 per day of continued noncompliance.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 43.70  
2    RCW to read as follows:

3        The department must update its blood lead testing guidance for  
4    health care providers to include children living within one kilometer  
5    of a general aviation airport among the high-risk populations broadly  
6    recommended for a blood lead test, without respect to the clinical  
7    judgment of the health care provider.

8        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 70A.15  
9    RCW to read as follows:

10       An activated authority has a duty to enforce the requirements of  
11    chapter 70A.--- RCW (the new chapter created in section 11 of this  
12    act) in the areas within its jurisdiction.

13       **Sec. 9.**    RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
14    read as follows:

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

22       (a) Civil penalties imposed pursuant to RCW 18.104.155,  
23    70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
24    70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
25    70A.65.200, 70A.455.090, section 6 of this act, 76.09.170, 77.55.440,  
26    78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
27    90.56.330, and 90.64.102.

28       (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
29    43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
30    70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
31    90.48.120, and 90.56.330.

32       (c) Except as provided in RCW 90.03.210(2), the issuance,  
33    modification, or termination of any permit, certificate, or license  
34    by the department or any air authority in the exercise of its  
35    jurisdiction, including the issuance or termination of a waste  
36    disposal permit, the denial of an application for a waste disposal  
37    permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for  
2 a solid waste permit exemption under RCW 70A.205.260.

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

5 (e) Decisions of local health departments regarding the issuance  
6 and enforcement of permits to use or dispose of biosolids under RCW  
7 70A.226.090.

8 (f) Decisions of the department regarding waste-derived  
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
10 decisions of the department regarding waste-derived soil amendments  
11 under RCW 70A.205.145.

12 (g) Decisions of local conservation districts related to the  
13 denial of approval or denial of certification of a dairy nutrient  
14 management plan; conditions contained in a plan; application of any  
15 dairy nutrient management practices, standards, methods, and  
16 technologies to a particular dairy farm; and failure to adhere to the  
17 plan review and approval timelines in RCW 90.64.026.

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

21 (i) Decisions of the department of natural resources, the  
22 department of fish and wildlife, and the department that are  
23 reviewable under chapter 76.09 RCW, and the department of natural  
24 resources' appeals of county, city, or town objections under RCW  
25 76.09.050(7).

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

28 (k) Decisions of the department of fish and wildlife to issue,  
29 deny, condition, or modify a hydraulic project approval permit under  
30 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
31 comply, to issue a civil penalty, or to issue a notice of intent to  
32 disapprove applications.

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

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

39 (n) Decisions of the department of ecology that are appealable  
40 under RCW 70A.245.020 to set recycled minimum postconsumer content

1 for covered products or to temporarily exclude types of covered  
2 products in plastic containers from minimum postconsumer recycled  
3 content requirements.

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

5 (2) The following hearings shall not be conducted by the hearings  
6 board:

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

9 (b) Hearings conducted by the department pursuant to RCW  
10 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
11 70A.15.3110, and 90.44.180.

12 (c) Appeals of decisions by the department under RCW 90.03.110  
13 and 90.44.220.

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

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

19 **Sec. 10.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
20 read as follows:

21 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
22 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
23 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 6 of this  
24 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
25 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
26 a notice in writing, either by certified mail with return receipt  
27 requested or by personal service, to the person incurring the penalty  
28 from the department or the local air authority, describing the  
29 violation with reasonable particularity. For penalties issued by  
30 local air authorities, within 30 days after the notice is received,  
31 the person incurring the penalty may apply in writing to the  
32 authority for the remission or mitigation of the penalty. Upon  
33 receipt of the application, the authority may remit or mitigate the  
34 penalty upon whatever terms the authority in its discretion deems  
35 proper. The authority may ascertain the facts regarding all such  
36 applications in such reasonable manner and under such rules as it may  
37 deem proper and shall remit or mitigate the penalty only upon a  
38 demonstration of extraordinary circumstances such as the presence of



1 information or factors not considered in setting the original  
2 penalty.

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

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

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

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

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

17 (4) If the amount of any penalty is not paid to the department  
18 within 30 days after it becomes due and payable, the attorney  
19 general, upon request of the department, shall bring an action in the  
20 name of the state of Washington in the superior court of Thurston  
21 county, or of any county in which the violator does business, to  
22 recover the penalty. If the amount of the penalty is not paid to the  
23 authority within 30 days after it becomes due and payable, the  
24 authority may bring an action to recover the penalty in the superior  
25 court of the county of the authority's main office or of any county  
26 in which the violator does business. In these actions, the procedures  
27 and rules of evidence shall be the same as in an ordinary civil  
28 action.

29 (5) All penalties recovered shall be paid into the state treasury  
30 and credited to the general fund except those penalties imposed  
31 pursuant to RCW 18.104.155, which shall be credited to the  
32 reclamation account as provided in RCW 18.104.155(7), RCW  
33 70A.15.3160, the disposition of which shall be governed by that  
34 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
35 to the recycling enhancement account created in RCW 70A.245.100, RCW  
36 70A.300.090, which shall be credited to the model toxics control  
37 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
38 shall be credited to the climate investment account created in RCW  
39 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
40 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which

1 shall be credited to the underground storage tank account created by  
2 RCW 70A.355.090.

3 NEW SECTION. **Sec. 11.** Sections 1 through 6 of this act  
4 constitute a new chapter in Title 70A RCW.

5 NEW SECTION. **Sec. 12.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of  
11 the state government and its existing public institutions, and takes  
12 effect immediately.

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