
SUBSTITUTE SENATE BILL 5579

State of Washington

68th Legislature

2023 Regular Session

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

READ FIRST TIME 02/17/23.

1 AN ACT Relating to expanding the department of ecology's
2 authority to refrain from enforcing certain provisions of chapter
3 70A.60 RCW to mitigate the effects of supply chain problems or other
4 similar disruptions; amending RCW 70A.60.060; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that recent supply
8 chain problems have made it difficult for Washington businesses to
9 access products that comply with the standards established in chapter
10 70A.60 RCW, relating to hydrofluorocarbons. The legislature further
11 finds that providing additional enforcement flexibility to the
12 department of ecology is a solution that will help keep businesses
13 from experiencing supply chain problems when compliant products are
14 unavailable. The legislature concludes that this additional
15 flexibility will benefit businesses and consumers alike.

16 **Sec. 2.** RCW 70A.60.060 and 2021 c 315 s 7 are each amended to
17 read as follows:

18 (1) A person may not offer any product or equipment for sale,
19 lease, or rent, or install or otherwise cause any equipment or
20 product to enter into commerce in Washington if that equipment or

1 product consists of, uses, or will use a substitute, as set forth in
2 appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on
3 January 3, 2017, for the applications or end uses restricted by
4 appendix U or V of the federal regulation, as those read on January
5 3, 2017, consistent with the deadlines established in subsection (2)
6 of this section. Except where existing equipment is retrofit, nothing
7 in this subsection requires a person that acquired a restricted
8 product or equipment prior to the effective date of the restrictions
9 in subsection (2) of this section to cease use of that product or
10 equipment. Products or equipment manufactured prior to the applicable
11 effective date of the restrictions specified in subsection (2) of
12 this section may be sold, imported, exported, distributed, installed,
13 and used after the specified effective date.

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

18 (a) January 1, 2020, for:

19 (i) Propellants;

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

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

26 (b) January 1, 2021, for:

27 (i) Refrigerated food processing and dispensing equipment;

28 (ii) Compact residential consumer refrigeration products;

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

31 (c) January 1, 2022, for:

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

34 (ii) Vending machines;

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

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

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

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

6 (3) The department may by rule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (5) The department may adopt rules to administer, implement, and
33 enforce this section, including rules that establish a process and
34 criteria for granting variances from the requirements of this section
35 if the department determines that supply chain problems impair the
36 ability of persons to comply with the requirements of this section.
37 If the department elects to adopt rules, the department must seek,
38 where feasible and appropriate, to adopt rules, including rules under
39 subsection (4) of this section, that are the same or consistent with
40 the regulatory standards, exemptions, reporting obligations,

1 disclosure requirements, and other compliance requirements of other
2 states or the federal government that have adopted restrictions on
3 the use of hydrofluorocarbons and other substitutes. Prior to the
4 adoption or update of a rule under this section, the department must
5 identify the sources of information it relied upon, including peer-
6 reviewed science.

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

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

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