

SENATE BILL REPORT

2SHB 1154

As Reported by Senate Committee On:
Environment, Energy & Technology, March 25, 2025
Ways & Means, April 7, 2025

Title: An act relating to ensuring environmental and public health protection from solid waste handling facility operations.

Brief Description: Ensuring environmental and public health protection from solid waste handling facility operations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Duerr, Doglio, Ramel, Berry, Ryu, Callan, Pollet, Berg, Davis, Kloba and Hunt).

Brief History: Passed House: 3/5/25, 58-39.

Committee Activity: Environment, Energy & Technology: 3/18/25, 3/25/25 [DP-WM, DNP].

Ways & Means: 4/04/25, 4/07/25 [DPA, DNP].

Brief Summary of Amended Bill

- Requires the Department of Ecology (Ecology) to approve all permits for landfilling prior to issuance or renewal by the jurisdictional health department.
- Authorizes Ecology to suspend a permit and impose civil penalties for a solid waste handling facility that is operating in violation of any solid waste management requirements.
- Requires a jurisdictional health department to attempt education and outreach prior to issuing a civil penalty.
- Provides a number of conditions in which Ecology may take enforcement action with clarification on when Ecology will take lead on enforcement.

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.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Dhingra, Liias, Lovelett, Ramos and Wellman.

Minority Report: Do not pass.

Signed by Senators Boehnke, Ranking Member; Harris, MacEwen and Short.

Staff: Alicia Kinne-Clawson (786-7407)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Braun, Muzzall, Wagoner and Warnick.

Staff: Jed Herman (786-7346)

Background: Solid Waste Handling Facility Management. Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans and in developing the comprehensive solid waste management plan.

Permits. Local jurisdictional health departments are responsible for issuing permits to solid waste facilities. Jurisdictional health departments must determine if a solid waste facility meets local health and zoning requirements, the local solid waste management plan, and all applicable state and federal solid waste laws and regulations. Solid waste facility permits must be renewed at least every five years.

Jurisdictional health departments are required to review and approve applications for new or modified solid waste handling facilities. The application is on forms prescribed by Ecology. Upon receipt of the application, the jurisdictional health district provides a copy of the application to Ecology. Ecology reviews the application to confirm that the facility conforms with all applicable laws and regulations.

Summary of Amended Bill: Solid Waste Disposal Facility and Landfill Permits. Every permit for landfilling issued by a jurisdictional health department must be reviewed and approved by Ecology prior to issuance of the permit to ensure that the landfill conforms with the following:

- all applicable laws and regulations, including minimum function standards; and
- the approved comprehensive solid waste plan.

Ecology may require a jurisdictional health department to amend the contents of a proposed permit to ensure conformance with applicable laws and regulations. For landfilling permits issued after August 1, 2027, a permit or permit renewal is considered invalid unless it has been approved by Ecology.

Ecology and a jurisdictional health district may at any time suspend a permit for a solid waste disposal site if either determines the site or facility are being operated in violation of any applicable solid waste management laws or regulations.

Enforcement. A jurisdictional health department may send written notice to Ecology that it is deferring to Ecology's enforcement authority with respect to a solid waste handling facility within the jurisdictional health district's authority. Ecology may exercise authority independent of the jurisdictional health authority if, in Ecology's judgement, the jurisdictional health authority's response fails to adequately address the violations of this chapter by the solid waste handling facility operator; and Ecology provides written notice of its intent to enforce to the jurisdictional health department and the solid waste handling facility operator.

The written notice must be provided no less than 30 days prior to Ecology issuing a penalty or order and must include:

- identification of the violations that are the basis for the enforcement action;
- start and end date of enforcement activities; and
- geographical boundaries of solid waste handling facilities of planned enforcement activities.

If within 30 days of receipt of a notice from Ecology of an intent to enforce, the jurisdictional health department initiates an enforcement action that Ecology and the jurisdictional health department agree adequately addresses the identified violations, then Ecology will hold its enforcement action in abeyance.

A jurisdictional health department or Ecology may:

- impose a civil penalty of up to \$5,000 per day, and up to \$10,000 per day after 14 days, of operation of a solid waste handling facility in violation of the requirements of local or state solid waste management requirements or the permit issued; and
- issue an order requiring compliance by a solid waste handling facility.

Prior to issuing a civil penalty, a jurisdictional health department must attempt through

education and outreach to assist the person engaged in solid waste handling with achieving compliance with this act and the permit.

Penalties imposed by a jurisdictional health district must be paid to the local Treasury in an account used for the expenses incurred by the jurisdictional health district. Penalties imposed by Ecology must be deposited in the Model Toxics Control Operating Account. Any person who is issued an order or incurs a penalty from a jurisdictional health district may appeal the penalty to the local health officer. Any person who is issued an order or incurs a penalty from Ecology may appeal such order or penalty to the Pollution Control Hearings Board.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Clarifies language pertaining to any person engaged in solid waste handling.
- Requires a jurisdictional health department to attempt education and outreach prior to issuing a civil penalty.
- Provides a number of conditions in which Ecology may take enforcement action with clarification on when Ecology will take lead on enforcement.
- Removes section 6 pertaining to requirement for a reporting every five years from the jurisdictional health departments on any violations of the chapter.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill (Environment, Energy & Technology): PRO: This bill came about because we have landfills on fire. There's another landfill in Steven's County that has been out of compliance for 20 years. We do not have the backstops to protect the public from landfill noncompliance. This bill seems to provide a process by which Ecology can step in if the jurisdictional health districts cannot or will not. We are very much in support of this bill having spent the last five years being very frustrated getting compliance from DTG on all manner of things. Health districts do not have the ability to fine. Two sets of eyes with Ecology reviewing permits will help. Under current laws and regulations we have struggled to bring the DTG landfill into compliance. Limited purpose landfills accept construction debris that can expose people to hazardous chemicals. The DTG landfill has been operating unpermitted for multiples months. There are ongoing fires. Waste is buried outside their boundary. This is about the situations where there is a problem. This will give more teeth and more consistency.

OTHER: This proposal formalizes the cooperation between Ecology and local governments. As written we feel the bill changes the relationship between local governments and the state and makes enforcement local in name only. Responsible management of these facilities requires significant investment. This policy creates regulatory authority by allowing ecology to intervene without clear triggers. There are gaps in enforcement that this bill recognizes and tries to address. We would support this bill if the scope of this bill were just landfills.

I support Ecology to have more enforcement. The enforcement section pulls our recycling facilities into this bill when we don't have any problems. This bill would allow Ecology to provide regulatory support to our jurisdictional health department partners.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Davina Duerr, Prime Sponsor; Wendy Wickersham ; Heather Trim, Zero Waste Washington; Nancy Lust, Friends of Rocky Top; Scott Cave, Friends of Rocky Top.

OTHER: Jaime Bodden, WSALPHO; Nick Streuli, WRRRA; Travis Dutton, Washington State Association of Counties; Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Troy LAUTENBACH, Lautenbach Recycling.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology):

CON: TaraLyn Fray.

Staff Summary of Public Testimony on Second Substitute House Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.*

PRO: This bill will address inconsistencies and will give some added needed teeth that we need. We believe very strongly that the bill needs to apply to all facilities. We have seen this problem not just with landfills but also with other solid waste facilities. In general, this bill will be a benefit for the state and will not be a problem for any of the facilities that are already operating well and in compliance. This bill is so important to the people in Yakima that live around the DTG landfill. The landfill was operating for many years out of compliance. Only when they finally came into compliance for a number of things that we learned more about the landfill, including that it has PFAS contamination in the groundwater. This bill would help strengthen Ecology's position, and that was a big assist in our area because the local health district and the county were really inept in a number of ways.

I live near this landfill in Yakima that DTG owns. I think that this bill has consistently gotten better and better as the various legislators have taken into consideration some of the comments made by folks who are going to be dealing with the repercussions. There needs to be language in the bill that clarifies when Ecology is the boss.

OTHER: Our local health jurisdictions have concerns about the dual enforcement authority with Ecology. Facility owners and operators need a clear point of contact to ensure an understanding of permit requirements. Local health jurisdictions are experts in working with business owners to find solutions that support public health and environment protections and balance that with the economic and infrastructure benefits. This often means that we need to be flexible, and a rigid interpretation of statutes has created confusion, increased the financial burden on facilities, and disrupted operations. We believe a collaborative approach that's built on support and solutions rather than on enforcement authority is what's best for solid waste management in our state. The Washington Refuse and Recycling Association supports the robust regulation of solid waste facilities. There are gaps in enforcement that we believe need to be addressed, and this legislation will increase enforcement. However, the scope of the bill goes far beyond landfills to include all waste handling facilities, which causes some concern and confusion for the industry. We believe a narrowed bill to focus on the issues seen in landfills would be a better approach. We would suggest language that narrows the scope of the bill to apply specifically to landfills for this expanded authority for Ecology and would help lower the fiscal note. Counties invest millions to safely manage our landfills and waste facilities through proven partnerships with our local health departments, who have clear oversight authority. We support that this policy gives health departments much needed stronger enforcement tools to protect human and environmental health, but it also allows Ecology to override that local authority without any clear criteria. Our experience is that Ecology can be inconsistent in its policy interpretation from region to region and person to person. In short, this puts us in the position of having two bosses, creating confusion and inefficiency. We support the general objective of allowing Ecology to be a backstop to help with enforcement when there's a problem at a landfill. However, the bill is written in a way that is too broad. The worry is that it will be difficult for a facility to negotiate with its local government partner because Ecology could come over the top of that negotiation and preempt local authority.

Persons Testifying (Ways & Means): PRO: Heather Trim, Zero Waste Washington; Nancy Lust, Friends of Rocky Top; Scott Cave, Friends of Rocky Top.

OTHER: Nick Streuli, Washington Refuse & Recycling Association; Travis Dutton, Washington State Association of Counties; Jaime Bodden, WSALPHO; Jasmine Vasavada, DTG.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.