

SENATE BILL REPORT

ESHB 2818

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 29, 2008

Title: An act relating to the duties of the office of waste reduction and sustainable production within the department of ecology.

Brief Description: Concerning the duties of the department of ecology's office of waste reduction and sustainable production.

Sponsors: House Committee on Select Committee on Environmental Health (originally sponsored by Representatives Campbell and Hudgins).

Brief History: Passed House: 2/19/08, 95-0.

Committee Activity: Water, Energy & Telecommunications: 2/27/08, 2/29/08 [DPA-WM, DNP].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

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

Signed by Senators Rockefeller, Chair; Murray, Vice Chair; Fraser, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Hatfield, Holmquist and Morton.

Staff: Scott Boettcher (786-7416)

Background: Toxic chemicals are found in the environment, people, and living organisms. There are adverse effects on human health and the environment from exposure to toxic chemicals. Toxic chemicals include: persistent, bioaccumulative chemicals; heavy metals; and chemicals that are endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic, or toxic to reproduction. Children are at higher risk of harm from exposure to toxic chemicals than adults.

The existing state regulatory framework for hazardous waste and solid waste reduction is based on 1990 state policy goal of reducing the generation of hazardous waste by 50 percent. This policy goal has been met through pollution prevention planning, technical assistance, and technical consultation on waste reduction and hazardous substance use reduction for state industrial and commercial businesses and facilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Amendments): The Department of Ecology (Ecology) must convene a stakeholder group to evaluate existing pollution prevention planning requirements for their ability to help meet a new state policy goal of reducing toxic chemical use by 50 percent by 2020. Ecology must report its findings and recommendations to the Legislature by December 31, 2008.

"Toxic chemicals" are defined as chemicals with an adverse effect on human health and the environment. Toxic chemicals include those that are persistent, bioaccumulative, toxic, endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic, toxic to reproduction, or have degradation products that exhibit any of these characteristics.

Ecology's Office of Waste Reduction is renamed the Office of Waste Reduction and Sustainable Production (OWRSP). Its responsibilities include promotion of toxic chemicals use reduction, sustainable production, and the production of safer consumer products.

OWRSP is required to promote:

- innovative and cost-effective methods for reducing or eliminating use of toxic substances in manufacturing and other processes;
- use of pollution prevention as a means for:
 - preventing risks associated with use and production of hazardous substances;
 - reducing energy and resource consumption;
 - reducing or eliminating the generation of hazardous substances, pollution, and waste; and
 - sustaining and safeguarding the competitive advantage of large and small businesses in the state; and
- voluntary implementation of pollution prevention as a means for meeting the requirements of state or federal environmental laws or regulations.

Ecology's existing Waste Reduction and Hazardous Substance Use Reduction and Consultation Program is required to provide engineering technical assistance services to businesses and manufacturers seeking to use safer chemical alternatives, reduce waste, increase efficiency, and redesign industrial processes.

OWRSP is required to administer a Waste Education and Safer Chemical Alternatives Research and Development program that would include establishing a database of chemicals to help meet the 2020 toxic chemicals use reduction goal.

OWRSP must prepare and submit a biennial progress report to the Legislature.

EFFECT OF CHANGES MADE BY WATER, ENERGY & TELECOMMUNICATIONS COMMITTEE (Recommended Amendments): Removes the exclusion for chemicals used in agricultural production from the definition of toxic chemicals.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Engrossed Substitute Bill: PRO: The bill provides a "carrot approach" for Ecology to work with businesses and manufacturers to effect toxic use reductions. Collaborative approaches as envisioned by the bill can be very effective. As an example, the Lean Manufacturing Approach that Ecology has used to work with several businesses and manufacturers has proven very effective at reducing pollution, increasing efficiency, saving dollars, and keeping those businesses and manufacturers competitive.

Businesses need assistance as envisioned by the bill. This bill brings together business and academic communities, along with non-governmental organizations and other interested parties to work together for toxics use reduction. This bill is both pro-business and pro-health.

This bill takes an important step in toxics use reduction by establishing a clear policy goal of 50 percent reduction in toxic chemical use by 2020. The stakeholder process envisioned in the bill is very important. The bill is a good thing for business as it calls for research and development, and technical assistance in toxics use reduction. The amendment in House regarding removing chemicals used in agricultural production from the definition of toxic chemicals is overly broad. The proposed striking amendment to remove the agricultural exclusion should be adopted.

CON: The bill is duplicative. For example, section 3(b) and 3(c) are duplicative with human health and safety laws under the labor side, environmental laws under the U.S. Environmental Protection Agency, greenhouse gas measures being considered by the Legislature this session, and more. Existing state and federal regulatory obligations already cover much of what is in the bill. There will also be a fiscal impact with this bill.

Eliminating the House amendment for agriculture will introduce a second review of agricultural chemicals that is duplicative of an existing federal review process. Food Quality Protection Act at the federal level provides for review of all chemical products used in agriculture. Food Quality Protection Act has safety factors for humans and for children. Pest protection products are needed to maintain the economic viability of commercial agriculture for Washington. The issue with agricultural chemicals is not the chemicals, but instead the dose and application rates. If exceeded or used improperly they can become toxic, like many other products. It is critical that this bill not apply to agriculture. Washington also has a waste pesticide disposal program to keep old or unused pesticides from harming the environment, as well as a pesticide registration commission. These programs keep agriculture viable in the state.

OTHER: This bill is about updating the 1990 state pollution prevention law. This bill will give more tools to businesses to find and use safer chemical alternatives. The bill is not about banning chemicals, additional reporting requirements, or new regulations. This bill provides a new policy goal to update the 1990 hazardous waste reduction goal of 50 percent by 1995 that has been met. Section 1(12) states that the goal can not be applied as a regulatory requirement. The program envisioned in the bill is modeled after the Massachusetts Toxics Use Reduction Institute, which has achieved a 41 percent reduction in use of toxic chemicals since 1989. The bill is about providing assistance to business and keeping business competitive.

Persons Testifying: PRO: Ron Newbry, Washington Manufacturing Services; Steven Gilbert, Institute of Neurotoxicology; Margaret Shield, Toxic-Free Legacy Coalition.

CON: Bill Stauffacher, Northwest Pulp and Paper Association; Dan Coyne, Far West Agribusiness Association and Crop Life America; Jim Jesernig, Washington State Potato Commission.

OTHER: Darin Rice, Ecology.