
HOUSE BILL 3312

State of Washington

60th Legislature

2008 Regular Session

By Representative Chase

1 AN ACT Relating to an exemption for manufacturers of biological
2 remediation technologies for use in on-site sewage disposal systems;
3 amending RCW 70.118.020; adding a new section to chapter 70.118 RCW;
4 creating new sections; providing an expiration date; and providing a
5 contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that discharges from
8 failing on-site sewage systems are a serious cause of pollution in
9 Washington's waterways, including Hood Canal, and a continuing threat
10 to public health and the shellfish industry. The financial cost for
11 many homeowners to fix failing or outdated on-site sewage systems may
12 be prohibitive.

13 The legislature recognizes new technologies may have the potential
14 to assist homeowners who wish to repair or upgrade their on-site sewage
15 disposal systems. However, regulatory barriers may inhibit homeowner's
16 access to these new technologies.

17 It is the intent of the legislature to assist homeowners to
18 voluntarily upgrade or repair their failing on-site sewage disposal

1 systems by removing regulatory barriers to access of new technologies
2 for on-site sewage systems.

3 **Sec. 2.** RCW 70.118.020 and 1994 c 281 s 2 are each amended to read
4 as follows:

5 (~~(As used)~~) The definitions in this section apply throughout this
6 chapter(~~(, the terms defined in this section shall have the meanings~~
7 ~~indicated)~~) unless the context clearly (~~(indicates)~~) requires
8 otherwise.

9 (1) "Nonwater-carried sewage disposal devices" means any device
10 that stores and treats nonwater-carried human urine and feces.

11 (2) "Alternative methods of effluent disposal" means systems
12 approved by the department (~~(of health)~~), including at least, mound
13 systems, alternating drainfields, anaerobic filters, evapotranspiration
14 systems, and aerobic systems.

15 (3) "Failure" means: (a) Effluent has been discharged on the
16 surface of the ground prior to approved treatment; or (b) effluent has
17 percolated to the surface of the ground; or (c) effluent has
18 contaminated or threatens to contaminate a groundwater supply.

19 (4) "Additive" means any commercial product intended to affect the
20 performance or aesthetics of an on-site sewage disposal system.

21 (5) "Department" means the department of health.

22 (6) "On-site sewage disposal system" means any system of piping,
23 treatment devices, or other facilities that convey, store, treat, or
24 dispose of sewage on the property where it originates or on nearby
25 property under the control of the user where the system is not
26 connected to a public sewer system. For purposes of this chapter, an
27 on-site sewage disposal system does not include indoor plumbing and
28 associated fixtures.

29 (7) "Chemical additive" means those additives containing acids,
30 bases, or other chemicals deemed unsafe by the department for use in an
31 on-site sewage disposal system.

32 (8) "Additive manufacturer" means any person who manufactures,
33 formulates, blends, packages, or repackages an additive product for
34 sale, use, or distribution within the state.

35 (9) "Repair" means relocation, replacement, or reconstruction of a
36 failed on-site sewage disposal system.

1 (10) "Biological remediation" includes: (a) A process that uses
2 microorganisms to return a contaminated environment, including a
3 drainfield or soil dispersal component, to a state of nonfailure; or
4 (b) a process that uses microorganisms to sufficiently increase the
5 infiltration rate through and into the soil below the infiltrative
6 surface of a clogged infiltrative surface on-site sewage disposal
7 system.

8 NEW SECTION. Sec. 3. (1) Manufacturers of biological remediation
9 technologies for use in the recovery of failed drainfields of on-site
10 sewage disposal systems must provide documentation of verified product
11 performance as required in (a)(i) through (iii) of this subsection to
12 the local health jurisdiction where the product will be installed.
13 Manufacturers of biological remediation technologies for use in the
14 recovery of failed drainfields of on-site sewage disposal systems are
15 not required to register their proprietary treatment products with the
16 department if the following conditions are met:

17 (a)(i) Product performance is verified through product testing
18 using international association of plumbing and mechanical officials
19 guide criteria standard 180-2003, or an equivalent standard, which
20 relates to aerobic bacterial generators for insert into septic tanks,
21 grease interceptors, and grease traps;

22 (ii) Product performance is verified through product testing
23 conducted by a testing facility conforming with the American national
24 standards institute requirements;

25 (iii) The product continues its certification with the appropriate
26 listing entity;

27 (iv) The biological component of the product meets the conditions
28 of RCW 70.118.060 relating to additive regulation; and

29 (v) The biological remediation technology is used solely for the
30 purpose of remedying or fixing a clogged infiltrative surface in a
31 failed on-site sewage disposal system; or

32 (b) Third-party field testing, accredited by the American national
33 standards institute, university testing data, or a department-approved
34 entity, showing remediation of a failed drainfield within ninety days.

35 (2) The definitions in RCW 70.118.020 apply throughout this
36 section.

1 (3) This section expires on the earlier of either July 1, 2010, or
2 the effective date of rules adopted by the state board of health for
3 the use and performance criteria of biological remediation technologies
4 for on-site sewage disposal systems.

5 NEW SECTION. **Sec. 4.** (1) Biological remediation technology may be
6 used in on-site sewage disposal systems not in a state of failure for
7 the purpose of preventing clogged infiltrative surfaces.

8 (2) On-site wastewater treatment system designers licensed under
9 chapter 18.210 RCW, installers approved by the local health officer to
10 install on-site sewage disposal systems or components, professional
11 engineers licensed under chapter 18.43 RCW, licensed on-site wastewater
12 treatment system operation and maintenance professionals, licensed
13 septic pumper, or other professional licensed by the local health
14 jurisdiction may install biological remediation products for use in on-
15 site sewage disposal systems not in a state of failure.

16 (3) A permit is not required for the installation or use of
17 biological remediation devices when an on-site sewage disposal system
18 is not in a state of failure. However, a local health jurisdiction may
19 require no fee registration for tracking purposes.

20 NEW SECTION. **Sec. 5.** (1) The state board of health shall adopt
21 rules by July 1, 2010, for verification of biological remediation
22 products performance and use of products with verified performance for
23 use in failing on-site sewage disposal systems.

24 (2) The rules must stipulate no fee requirements for permitting,
25 ongoing certification of products, continued product use, and
26 requirements for removal of biological remediation products.

27 (3) The rules must require monitoring of on-site sewage disposal
28 systems using biological remediation technology and at least annual
29 inspection of failing on-site sewage disposal systems that have
30 biological remediation technologies installed to return any component
31 of the on-site sewage disposal system to a state of nonfailure.

32 (4) The definitions in RCW 70.118A.020 apply throughout this
33 section.

34 NEW SECTION. **Sec. 6.** The state board of health shall report to

1 the appropriate committees of the legislature by July 1, 2009, on the
2 progress of rule making, as well as the successes and failures of
3 biological remediation technology.

4 NEW SECTION. **Sec. 7.** (1) A local health jurisdiction may issue a
5 no fee permit for use of biological remediation products in failing on-
6 site sewage disposal systems. Prior to issuing a no fee permit for a
7 biological remediation product, the local health officer or on-site
8 wastewater treatment system designer licensed under chapter 18.210 RCW
9 must perform an assessment, considering site and effluent specific
10 characteristics, of the on-site sewage disposal system to determine if
11 biological remediation technology is appropriate to bring the system
12 into a state of nonfailure and that the biological remediation
13 technology will not adversely impact the environment or public health
14 by increased wastewater flows through the on-site sewage disposal
15 system and soil.

16 (2) The no fee permit must state inspection, monitoring, and
17 maintenance requirements.

18 (3) The local health jurisdiction must require system repairs to
19 meet on-site sewage disposal system requirements as found in chapter
20 246-272A WAC if an on-site sewage disposal system with a biological
21 remediation product does not remedy a clogged infiltrative surface
22 within three months.

23 (4) Each no fee permit must include:

24 (a) A plan with a time frame for correcting any public health
25 concern associated with the failing on-site sewage disposal system and
26 the means to protect public health until the concern is addressed;

27 (b) A plan for operation and maintenance that is filed with the
28 local health jurisdiction;

29 (c) A schedule for maintenance and operation reports detailing the
30 status of the on-site sewage disposal system with the local health
31 jurisdiction where the on-site sewage disposal system is located;

32 (d) A contract with the owner of the on-site sewage disposal system
33 with a biological remediation product for inspection and monitoring by
34 an inspector certified under RCW 70.118.120 or a no fee contract with
35 a local health officer; and

36 (e) Information for the owner of an on-site sewage disposal system
37 with a biological remediation product that includes: (i) Instructions

1 for appropriate maintenance and operation of an on-site sewage system;
2 and (ii) a statement that if the on-site sewage disposal system remains
3 in a state of failure after three months, the owner will be required to
4 repair the on-site sewage disposal system as required by chapter 246-
5 272A WAC, and an estimate of those costs.

6 (5) The definitions in RCW 70.118.020 apply throughout this
7 section.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.118 RCW
9 to read as follows:

10 Only on-site wastewater treatment system designers licensed under
11 chapter 18.210 RCW, installers approved by the local health officer to
12 install on-site sewage disposal systems or components, or professional
13 engineers licensed under chapter 18.43 RCW are permitted to install
14 biological remediation products for use in failing on-site sewage
15 disposal systems.

16 NEW SECTION. **Sec. 9.** Sections 4 through 7 of this act expire July
17 1, 2010.

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