
SUBSTITUTE SENATE BILL 6213

State of Washington

66th Legislature

2020 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Das, Carlyle, Van De Wege, Dhingra, Kuderer, Lovelett, Nguyen, Billig, Rolfes, Saldaña, Darneille, Hasegawa, Lias, Keiser, Pedersen, Stanford, Frockt, Wellman, and Wilson, C.)

READ FIRST TIME 01/31/20.

1 AN ACT Relating to certain expanded polystyrene products;
2 reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new
3 chapter to Title 70 RCW; prescribing penalties; providing an
4 effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the:

7 (a) Recycling development center established in chapter 70.370
8 RCW was created to facilitate the development of markets for recycled
9 products and to assist businesses with transforming or
10 remanufacturing waste materials into usable and marketable materials
11 or products; and

12 (b) Evaluation and assessment of plastic packaging sold into the
13 state as required under chapter 70.380 RCW will provide options for
14 reducing plastic packaging.

15 (2) It is the intent of the legislature to: Prohibit all expanded
16 polystyrene products by January 1, 2025, in coordination with the
17 efforts of the recycling development center and information provided
18 through the evaluation and assessment of plastic packaging; and
19 prioritize assistance through the recycling development center to
20 expand recycling or waste materials transformation businesses that
21 employ vulnerable populations.

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

4 (1) (a) "Covered product" means the following products made of
5 expanded polystyrene:

6 (i) A portable container used for cold storage, except for
7 expanded polystyrene containers used for drugs or medical devices as
8 defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec.
9 301 et seq.) or shipping perishable commodities from a wholesale or
10 retail establishment;

11 (ii) Food service products that include food containers, plates,
12 clamshell-style containers, and hot and cold beverage cups; and

13 (iii) Void filling packaging products, which means loose fill
14 packaging material, also referred to as packing peanuts.

15 (b) "Covered product" does not include packaging for raw,
16 uncooked, or butchered meat, fish, poultry, or seafood, vegetables,
17 or egg cartons designed to hold more than twelve eggs.

18 (2) "Department" means the department of ecology.

19 (3) "Expanded polystyrene" means blown polystyrene and expanded
20 and extruded foams that are thermoplastic petrochemical materials
21 utilizing a styrene monomer and processed by any number of techniques
22 including, but not limited to, fusion of polymer spheres (expandable
23 bead polystyrene), injection molding, foam molding, and extrusion-
24 blow molding (extruded foam polystyrene).

25 (4) "Food service establishment" means establishments that
26 provide, serve, or deliver food, beverages, or prepared food for
27 consumption.

28 (5) "Manufacturer" includes any person, firm, association,
29 partnership, corporation, governmental entity, organization, or joint
30 venture that produces covered products.

31 NEW SECTION. **Sec. 3.** Beginning June 1, 2022:

32 (1) The sale and distribution of covered products in or into the
33 state is prohibited.

34 (2) Any void filling loose fill packaging materials sold or
35 distributed into the state must be compostable.

36 NEW SECTION. **Sec. 4.** (1) The department may adopt rules as
37 necessary for the purpose of implementing, administering, and
38 enforcing this chapter.

1 (2) The department must:

2 (a) Prepare and post on its web site information regarding the
3 prohibitions on the use of covered products. The department may use
4 existing culturally appropriate and translated materials and
5 resources developed for the state's diverse ethnic populations.

6 (b) Provide technical assistance and guidance to manufacturers of
7 covered products, as requested.

8 NEW SECTION. **Sec. 5.** Beginning June 1, 2022:

9 (1) A manufacturer of products in violation of this chapter is
10 subject to a civil penalty not to exceed five thousand dollars for
11 each violation in the case of a first offense. Manufacturers that are
12 repeat violators are subject to a civil penalty not to exceed ten
13 thousand dollars for each repeat offense. Penalties collected under
14 this section must be deposited in the model toxics control operating
15 account created in RCW 70.105D.190.

16 (2) Penalties issued under this section are appealable to the
17 pollution control hearings board established in chapter 43.21B RCW.

18 NEW SECTION. **Sec. 6.** A city, town, county, or municipal
19 corporation may not implement a local ordinance restricting covered
20 products. An ordinance restricting covered products that was not
21 enacted as of January 1, 2021, is preempted by this chapter, as of
22 the effective date of this section.

23 **Sec. 7.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and
24 2019 c 290 s 12 are each reenacted and amended to read as follows:

25 (1) The hearings board shall only have jurisdiction to hear and
26 decide appeals from the following decisions of the department, the
27 director, local conservation districts, the air pollution control
28 boards or authorities as established pursuant to chapter 70.94 RCW,
29 local health departments, the department of natural resources, the
30 department of fish and wildlife, the parks and recreation commission,
31 and authorized public entities described in chapter 79.100 RCW:

32 (a) Civil penalties imposed pursuant to RCW 18.104.155,
33 70.94.431, 70.105.080, 70.107.050, 70.365.070, 70.375.060, section 5
34 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,
35 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020,
3 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

4 (c) A final decision by the department or director made under
5 chapter 183, Laws of 2009.

6 (d) Except as provided in RCW 90.03.210(2), the issuance,
7 modification, or termination of any permit, certificate, or license
8 by the department or any air authority in the exercise of its
9 jurisdiction, including the issuance or termination of a waste
10 disposal permit, the denial of an application for a waste disposal
11 permit, the modification of the conditions or the terms of a waste
12 disposal permit, or a decision to approve or deny an application for
13 a solid waste permit exemption under RCW 70.95.300.

14 (e) Decisions of local health departments regarding the grant or
15 denial of solid waste permits pursuant to chapter 70.95 RCW.

16 (f) Decisions of local health departments regarding the issuance
17 and enforcement of permits to use or dispose of biosolids under RCW
18 70.95J.080.

19 (g) Decisions of the department regarding waste-derived
20 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
21 decisions of the department regarding waste-derived soil amendments
22 under RCW 70.95.205.

23 (h) Decisions of local conservation districts related to the
24 denial of approval or denial of certification of a dairy nutrient
25 management plan; conditions contained in a plan; application of any
26 dairy nutrient management practices, standards, methods, and
27 technologies to a particular dairy farm; and failure to adhere to the
28 plan review and approval timelines in RCW 90.64.026.

29 (i) Any other decision by the department or an air authority
30 which pursuant to law must be decided as an adjudicative proceeding
31 under chapter 34.05 RCW.

32 (j) Decisions of the department of natural resources, the
33 department of fish and wildlife, and the department that are
34 reviewable under chapter 76.09 RCW, and the department of natural
35 resources' appeals of county, city, or town objections under RCW
36 76.09.050(7).

37 (k) Forest health hazard orders issued by the commissioner of
38 public lands under RCW 76.06.180.

39 (l) Decisions of the department of fish and wildlife to issue,
40 deny, condition, or modify a hydraulic project approval permit under

1 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
2 comply, to issue a civil penalty, or to issue a notice of intent to
3 disapprove applications.

4 (m) Decisions of the department of natural resources that are
5 reviewable under RCW 78.44.270.

6 (n) Decisions of an authorized public entity under RCW 79.100.010
7 to take temporary possession or custody of a vessel or to contest the
8 amount of reimbursement owed that are reviewable by the hearings
9 board under RCW 79.100.120.

10 (2) The following hearings shall not be conducted by the hearings
11 board:

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

14 (b) Hearings conducted by the department pursuant to RCW
15 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
16 90.44.180.

17 (c) Appeals of decisions by the department under RCW 90.03.110
18 and 90.44.220.

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

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

24 **Sec. 8.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and
25 2019 c 290 s 12 are each reenacted and amended to read as follows:

26 (1) The hearings board shall only have jurisdiction to hear and
27 decide appeals from the following decisions of the department, the
28 director, local conservation districts, the air pollution control
29 boards or authorities as established pursuant to chapter 70.94 RCW,
30 local health departments, the department of natural resources, the
31 department of fish and wildlife, the parks and recreation commission,
32 and authorized public entities described in chapter 79.100 RCW:

33 (a) Civil penalties imposed pursuant to RCW 18.104.155,
34 70.94.431, 70.105.080, 70.107.050, 70.365.070, 70.375.060, section 5
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2 modification, or termination of any permit, certificate, or license
3 by the department or any air authority in the exercise of its
4 jurisdiction, including the issuance or termination of a waste
5 disposal permit, the denial of an application for a waste disposal
6 permit, the modification of the conditions or the terms of a waste
7 disposal permit, or a decision to approve or deny an application for
8 a solid waste permit exemption under RCW 70.95.300.

9 (d) Decisions of local health departments regarding the grant or
10 denial of solid waste permits pursuant to chapter 70.95 RCW.

11 (e) Decisions of local health departments regarding the issuance
12 and enforcement of permits to use or dispose of biosolids under RCW
13 70.95J.080.

14 (f) Decisions of the department regarding waste-derived
15 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
16 decisions of the department regarding waste-derived soil amendments
17 under RCW 70.95.205.

18 (g) Decisions of local conservation districts related to the
19 denial of approval or denial of certification of a dairy nutrient
20 management plan; conditions contained in a plan; application of any
21 dairy nutrient management practices, standards, methods, and
22 technologies to a particular dairy farm; and failure to adhere to the
23 plan review and approval timelines in RCW 90.64.026.

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

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28 department of fish and wildlife, and the department that are
29 reviewable under chapter 76.09 RCW, and the department of natural
30 resources' appeals of county, city, or town objections under RCW
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33 public lands under RCW 76.06.180.

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36 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
37 comply, to issue a civil penalty, or to issue a notice of intent to
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40 reviewable under RCW 78.44.270.

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13 and 90.44.220.

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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 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act
20 constitute a new chapter in Title 70 RCW.

21 NEW SECTION. **Sec. 10.** Section 7 of this act expires June 30,
22 2021.

23 NEW SECTION. **Sec. 11.** Section 8 of this act takes effect June
24 30, 2021.

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