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SECOND SUBSTITUTE HOUSE BILL 1472

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State of Washington

64th Legislature

2015 Regular Session

**By** House Appropriations (originally sponsored by Representatives Fitzgibbon, Peterson, Goodman, McBride, Springer, Fey, Farrell, Hudgins, Kagi, Walkinshaw, Gregerson, S. Hunt, Jinkins, Tharinger, and Pollet; by request of Governor Inslee)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to using chemical action plans to require safer  
2 chemicals in Washington; amending RCW 43.21B.110 and 43.21B.110;  
3 adding a new section to chapter 39.26 RCW; adding new sections to  
4 chapter 43.131 RCW; adding a new chapter to Title 70 RCW; creating  
5 new sections; prescribing penalties; providing an effective date; and  
6 providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds:

9 (1) Biomonitoring studies reveal adults, children, and even  
10 fetuses carry a body burden of toxic chemicals. These include  
11 chemicals linked to cancer, brain and nervous system damage, birth  
12 defects, developmental delays, and reproductive harm.

13 (2) A growing body of scientific evidence demonstrates that these  
14 toxic chemical exposures are taking a toll on public health and  
15 playing a role in the incidence and prevalence of many diseases and  
16 disorders, including learning and behavioral problems, asthma,  
17 reproductive problems, birth defects, obesity, and cancer.

18 (3) An emerging concern is the uncontrolled release of chemical  
19 pollutants that come from the diffuse, largely unregulated source of  
20 products containing those chemicals. Many chemicals of concern are  
21 persistent and therefore remain in the environment for decades.

1 (4) It is the policy of the state to protect public health and  
2 the environment by eliminating or reducing the exposure of its  
3 residents to toxic chemicals of concern, especially children and  
4 other sensitive or high exposure populations.

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

8 (1) "Alternatives assessment" means a process for identifying and  
9 comparing potential chemical and nonchemical alternatives currently  
10 in existence that can be used to replace the use of a chemical. The  
11 objective of an alternatives assessment is to select less toxic  
12 chemicals or nonchemical alternatives to replace the use of a  
13 chemical in a product and to avoid the unintended consequence of  
14 switching to a substitute that presents an equivalent or greater  
15 concern. An alternatives assessment follows the guidelines issued by  
16 the interstate chemicals clearinghouse, the national academy of  
17 sciences, or equivalent methodology. At a minimum, an alternatives  
18 assessment includes: An evaluation of chemical hazard, exposure,  
19 performance, cost, and availability; information for each alternative  
20 considered; and the identification of alternatives.

21 (2) "Biomonitoring" means assessment of human exposures to  
22 chemicals by measuring the chemicals or their metabolites in human  
23 tissues or specimens, such as blood, breast milk, and urine.

24 (3) "Chemical" means a substance, including metals, with a  
25 distinct molecular composition or a group of structurally related  
26 substances and includes the breakdown products of the substance or  
27 substances that form through decomposition, degradation, or  
28 metabolism.

29 (4) "Chemical action plan" means a plan that identifies,  
30 characterizes, and evaluates uses and releases of a specific chemical  
31 or group of chemicals and identifies actions needed to protect human  
32 health and the environment.

33 (5) "Chemical hazard assessment" means an evaluation of the  
34 hazards posed by the chemical of concern in a product or a  
35 manufacturing process. Chemical hazard assessments follow the  
36 guidelines issued by the interstate chemicals clearinghouse, national  
37 academy of sciences, or equivalent methodology.

38 (6) "Department" means the department of ecology.

1 (7) "Director" means the director of the department of ecology or  
2 the director's designee.

3 (8) "Manufacturer" means any person, firm, association,  
4 partnership, corporation, governmental entity, organization, or joint  
5 venture that produces a product or is an importer or domestic  
6 distributor of a product sold or offered for sale in or into the  
7 state. "Manufacturer" does not include small businesses as defined in  
8 RCW 19.85.020.

9 (9) "Product" means any item sold for residential or commercial  
10 use including any component or product packaging. "Product" does not  
11 include the following items, but does include their packaging:

12 (a) Food or beverage;

13 (b) Tobacco products;

14 (c) Drug or biological products regulated by the United States  
15 food and drug administration;

16 (d) Products produced under military specifications;

17 (e) Finished products regulated by the federal aviation  
18 administration;

19 (f) Chemicals used to produce an agricultural commodity, as  
20 defined in RCW 17.21.020; and

21 (g) Any previously owned product sold in casual or isolated sales  
22 as defined in RCW 82.04.040 or products sold by nonprofit  
23 organizations.

24 (10) "Product component" means a uniquely identifiable material  
25 or coating that is included as a part of a finished product.

26 (11) "Safer alternative" means an alternative that is less  
27 hazardous to humans or the environment than the existing chemical or  
28 chemical process. A safer alternative to a particular chemical may  
29 include a chemical substitute or a change in materials or design that  
30 eliminates the need for a chemical alternative.

31 (12) "Summary report" means a report prepared by the department  
32 summarizing available alternatives assessments and includes a  
33 determination regarding the existence of a safer alternative. The  
34 summary report also includes a determination of the completeness of  
35 the alternatives assessments reviewed and identifies unsuitable  
36 alternatives.

37 (13) "Unsuitable alternative" means an alternative identified  
38 through the alternatives assessment process that is not a safer  
39 alternative.

1        NEW SECTION.    **Sec. 3.**    (1) Beginning January 1, 2016, and every  
2 two years thereafter, the department, in consultation with the  
3 department of health, must select up to four chemicals for the  
4 development of chemical action plans as specified in section 5 of  
5 this act from the following:

6        (a) Chemicals identified by the United States environmental  
7 protection agency in section 304(a)(1) of the clean water act (water  
8 quality criteria for human health), that impact Washington state  
9 clean water bodies as identified under section 303(d) of the clean  
10 water act; or

11        (b) Chemicals that meet the criteria of a high priority chemical  
12 as defined in RCW 70.240.010 as applied to humans, plants, or  
13 wildlife, and either:

14        (i) Meet the criteria for a high priority chemical of high  
15 concern for children as described in RCW 70.240.030(1) (a) through  
16 (c); or

17        (ii) Have been shown through environmental monitoring studies to  
18 be present in fish, wildlife, air, water, soil, or sediment.

19        (2) The department may conduct environmental monitoring or,  
20 subject to the availability of amounts appropriated for this specific  
21 purpose, may request the department of health to conduct  
22 biomonitoring of a chemical to verify the chemical is present in the  
23 state's environment or population or to better understand  
24 environmental or human exposures in the state. Environmental  
25 monitoring and biomonitoring conducted pursuant to this chapter must  
26 be of a minimum scope necessary to adequately inform a chemical  
27 action plan.

28        (3) When selecting chemicals for the development of chemical  
29 action plans, the director shall notify the public of the selection,  
30 the basis for the selection, and a draft schedule. The notice must be  
31 published in the Washington State Register. The department shall  
32 provide the public with an opportunity for review and comment before  
33 finalizing the schedule.

34        NEW SECTION.    **Sec. 4.**    (1) The department may require information  
35 from manufacturers of products that contain a chemical selected for a  
36 chemical action plan under section 3 of this act. Prior to requesting  
37 information from a manufacturer under this subsection, the department  
38 must consult with the chemical safety committee established in  
39 section 6 of this act, as well as with a chemical action plan

1 external advisory committee, if one has been formed yet, to evaluate  
2 the particular chemical that is the subject of the information  
3 request. The department must make reasonable requests of  
4 manufacturers that are limited in their scope and frequency and that  
5 are focused on:

6 (a) The most common and prevalent uses of the chemicals or  
7 products containing the chemicals, based on the department's existing  
8 knowledge about the chemical;

9 (b) Areas where there is an identified gap in public or  
10 department knowledge about a chemical; and

11 (c) Chemical uses or products that the department has reason to  
12 believe are likely to be responsible for or associated with a  
13 significant portion of releases into the environment or public health  
14 exposures.

15 (2) Within six months of a request by the department of ecology,  
16 manufacturers shall report the following:

17 (a) The name and address of the manufacturer and the name,  
18 address, and phone number of a contact person for the manufacturer;

19 (b) The name of the chemical used or produced and its chemical  
20 abstracts service registry number;

21 (c) A brief description of the product or product component  
22 containing the substance;

23 (d) A description of the function of the chemical in the product;

24 (e) The amount of the chemical used in each unit of the product  
25 or product component. The amount may be reported in ranges, rather  
26 than the exact amount;

27 (f) An estimate of the number of products containing the chemical  
28 that the manufacturer sells in and into Washington each year; and

29 (g) Any other information the manufacturer deems relevant to the  
30 appropriate use of the product.

31 (3) In response to an information request from the department  
32 under this section, a manufacturer may extrapolate amounts and  
33 estimates from national data. The submission must include the  
34 information in subsection (2)(a) of this section for each  
35 manufacturer. However, the information required by subsection (2)(b)  
36 through (g) of this section is not required to be provided in a  
37 manner that identifies individual manufacturers.

38 (4) The department shall specify the required format for  
39 submission of the information required under subsection (2) of this  
40 section. The format should be generally consistent with the format

1 specified in other states with substantially similar reporting  
2 requirements.

3 (5) Multiple businesses, or a business association, may  
4 collaborate and submit a single submission on a chemical found in  
5 similar products.

6 (6) Where information submitted by a manufacturer under chapter  
7 70.240 RCW is the same as the information required to be submitted by  
8 the manufacturer in subsection (2) of this section, that manufacturer  
9 is not required to submit the same information again.

10 (7) The department may, by order, require a manufacturer subject  
11 to the reporting requirement in subsection (2) of this section to  
12 provide additional information that is relevant to the development of  
13 a chemical action plan under section 5 of this act. An order by the  
14 department must also meet the reasonableness criteria of subsection  
15 (1) of this section.

16 NEW SECTION. **Sec. 5.** (1) When developing a chemical action  
17 plan, the department shall convene an external advisory committee to  
18 provide stakeholder input, expertise, and additional information. All  
19 advisory committee meetings must be open to the public. The  
20 department must invite representatives from, at minimum, the  
21 following organizations and entities to serve as external advisory  
22 committee members: Large and small business sectors; a representative  
23 of the largest business organization in the state; community,  
24 environmental, and public health advocacy groups; local governments;  
25 affected and interested businesses; and public health agencies. State  
26 agencies and technical experts may be requested to participate.

27 (2) A chemical action plan must include the following types of  
28 information, evaluations, and recommendations:

29 (a) Chemical name, properties, uses, and manufacturers;

30 (b) An analysis of the available information on the production,  
31 unintentional production, uses, and disposal of the chemical;

32 (c) Information on the potential impacts on human health and the  
33 environment associated with the use and release of the chemical; and

34 (d) An evaluation of the regulatory and nonregulatory approaches  
35 that influence production, uses, releases, and management of the  
36 chemical.

37 (3)(a) A chemical action plan must identify actions needed to  
38 eliminate or reduce threats to human health and the environment and

1 include recommendations for managing, reducing, and phasing out the  
2 different uses and releases of the chemical to minimize exposure.

3 (b) Recommendations must be based on an evaluation of the  
4 following factors:

5 (i) Environmental and human health benefits;

6 (ii) Economic and social impacts;

7 (iii) Feasibility;

8 (iv) Availability and effectiveness of safer substitutes for uses  
9 of the chemical; and

10 (v) Consistency with existing federal and state regulatory  
11 requirements.

12 NEW SECTION. **Sec. 6.** (1) A permanent chemical safety committee  
13 is established in the office of the governor to fulfill the duties  
14 outlined in this chapter. The chemical safety committee must be  
15 chaired by the director of the department or the director's designee,  
16 who shall be a nonvoting member. The voting members of the chemical  
17 safety committee are comprised of:

18 (a) One individual designated to represent each major caucus of  
19 the house of representatives, to be appointed by the speaker of the  
20 house of representatives;

21 (b) One individual designated to represent each major caucus of  
22 the senate, to be appointed by the president of the senate;

23 (c) One representative of the largest business association in the  
24 state;

25 (d) One representative of a manufacturing business in the state;

26 (e) One representative of a city or county government that  
27 operates a municipal wastewater treatment plant or an organization  
28 that represents multiple city or county governments;

29 (f) One representative from an environmental or public health  
30 organization with a mission related to toxicology;

31 (g) One representative of academia with expertise in economics or  
32 business supply chain logistics and management;

33 (h) One representative of academia with expertise in chemistry or  
34 chemical engineering;

35 (i) One representative of academia with expertise in  
36 environmental science or a related field;

37 (j) One representative of academia with expertise in toxicology  
38 or a public health field; and

1 (k) The director of the department of health or the director's  
2 designee.

3 (2)(a) The individuals designated in subsection (1)(a) and (b) of  
4 this section may be elected members of the house of representatives  
5 or senate or may be other individuals designated by the speaker of  
6 the house of representatives or the president of the senate. With the  
7 exception of the individuals in subsection (1)(a) and (b) of this  
8 section, all other members of the committee must be appointed by the  
9 governor.

10 (b) The chemical safety committee shall adopt bylaws and  
11 operating procedures that may be modified from time to time by the  
12 committee.

13 (c) The members of the chemical safety committee are appointed to  
14 four-year terms and must be appointed by April 2016. No member of the  
15 chemical safety committee may have a financial interest in the  
16 outcome of business before the committee. A committee member with a  
17 financial interest in the outcome of a particular item of business in  
18 front of the committee may temporarily be recused from the committee  
19 for all committee activities related to that item of business, in  
20 which case a temporary replacement that meets the same criteria as in  
21 subsection (1) of this section must be appointed by the governor. All  
22 other committee vacancies must be filled for the remainder of the  
23 term by an appointment by the governor that meets the criteria in  
24 subsection (1) of this section, or by the speaker of the house of  
25 representatives for the appointees under subsection (1)(a) of this  
26 section or the president of the senate for the appointees under  
27 subsection (1)(b) of this section.

28 (d) A chemical safety committee member is eligible to serve on a  
29 chemical action plan external advisory committee. Chemical safety  
30 committee members are encouraged to closely follow the development of  
31 each chemical action plan under this chapter and to attend meetings  
32 of chemical action plan external advisory committees.

33 (3)(a) The chemical safety committee shall meet in June of each  
34 year beginning June 2016, and up to three other times per year as  
35 needed to consult on information requests, to evaluate the need for  
36 alternative assessments, and to evaluate completed alternatives  
37 assessments.

38 (b) Members of the chemical safety committee must be reimbursed  
39 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

1 (c) Meetings of the chemical safety committee must be facilitated  
2 by the William D. Ruckelshaus Center or a facilitator of the  
3 committee's choice.

4 (4)(a) Upon the completion of each chemical action plan, the  
5 department shall report the findings to the chemical safety  
6 committee.

7 (b) If a chemical action plan recommends an alternatives  
8 assessment, upon an affirmative vote by eight of the thirteen members  
9 of the chemical safety committee, the chemical safety committee must  
10 recommend to the department that a manufacturer or manufacturers  
11 conduct an alternatives assessment as specified in section 7 of this  
12 act. The scope of an alternatives assessment recommended by the  
13 chemical safety committee must be:

14 (i) A single type of use of a chemical in a specific type of  
15 manufacturing process; or

16 (ii) The inclusion of a chemical in a specific type of product.

17 (c) The chemical safety committee may not recommend that the  
18 department require manufacturers to perform an alternatives  
19 assessment for greater types of uses or products or by a greater  
20 number of manufacturers than is necessary to address significant  
21 sources of environmental or public health exposures to the chemical.

22 NEW SECTION. **Sec. 7.** (1) Consistent with a recommendation by  
23 the chemical safety committee pursuant to section 6 of this act, the  
24 department is authorized to require manufacturers, by order, to  
25 conduct alternatives assessments, as detailed in this section.

26 (2)(a) If ordered by the department, a manufacturer of a product  
27 that contains a chemical for which a chemical action plan has been  
28 completed under section 5 of this act or under chapter 173-333 WAC  
29 must submit an alternatives assessment to the department for each use  
30 of the chemical specified by the department.

31 (b) The manufacturer must submit the alternatives assessment to  
32 the department and the chemical safety committee established in  
33 section 6 of this act within one year of receipt of the department's  
34 order. The department, in consultation with the chemical safety  
35 committee, may grant an extension on a case-by-case basis for good  
36 cause if the manufacturer shows that additional time is necessary to  
37 complete an alternatives assessment or would substantially improve  
38 the quality of the alternatives assessment. Multiple businesses, or a

1 business association, may collaborate and submit a single  
2 alternatives assessment on a chemical found in similar products.

3 (c) In lieu of an alternatives assessment, a manufacturer may  
4 submit a certificate of compliance, as described in section 9(3) of  
5 this act, if:

6 (i) The manufacturer has ceased using the chemical for which it  
7 would be required to do an alternatives assessment; or

8 (ii) The manufacturer can demonstrate its plans to phase out the  
9 use of the chemical within two years of the department's order.

10 (3) If the chemical safety committee determines that the  
11 alternatives assessment does not meet the definition or objectives of  
12 an alternatives assessment, the department may contract with an  
13 independent scientific organization to conduct an independent  
14 alternatives assessment. Any alternatives assessment conducted by the  
15 independent contractor must include a process to involve interested  
16 parties.

17 (4) The chemical safety committee may rely on existing  
18 information indicating that a safer alternative for a chemical exists  
19 if that information is equivalent to an alternatives assessment.

20 NEW SECTION. **Sec. 8.** (1)(a) The department, in consultation  
21 with the department of health, shall prepare a summary report of all  
22 reviewed alternatives assessments and other relevant information  
23 assembled under section 7 of this act. The summary report must  
24 include a determination of whether a safer alternative exists and  
25 identify unsuitable alternatives.

26 (b) In order for the department to determine that a safer  
27 alternative exists, nine of the thirteen members of the chemical  
28 safety committee must make an affirmative vote to find that a safer  
29 alternative has been identified for use of a chemical in a product or  
30 process. The chemical safety committee may seek the input of the  
31 department and the department of health prior to voting to determine  
32 whether a safer alternative exists. The chemical safety committee may  
33 also contract out for independent scientific, economic, or other  
34 technical analysis of a submitted alternatives assessment in order to  
35 inform the committee's evaluation. In making its determination, the  
36 chemical safety committee shall evaluate whether the alternatives  
37 assessment submitted by manufacturers:

1 (i) Follows the guidelines on alternatives assessment issued by  
2 the interstate chemicals clearinghouse, the national academy of  
3 sciences, or equivalent methodology;

4 (ii) Identifies safer alternatives as defined in this subsection  
5 (1); and

6 (iii) Identifies unsuitable alternatives as defined in this  
7 subsection (1).

8 (2) If the department determines that a safer alternative does  
9 not exist, then the department and the chemical safety committee may  
10 reevaluate information on the availability of safer alternatives not  
11 more often than once every five years.

12 NEW SECTION. **Sec. 9.** (1)(a) If the chemical safety committee  
13 established in section 6 of this act determines that a safer  
14 alternative exists, based on a completed alternatives assessment or  
15 equivalent information, the chemical safety committee must recommend  
16 that the department prohibit, by rule, specific uses of the chemical,  
17 consistent with (b) of this subsection.

18 (b) If the chemical safety committee determines that a safer  
19 alternative exists consistent with (a) of this subsection, the  
20 department may, by rule, prohibit specific uses of the chemical, or  
21 prohibit the sale, offer for sale, or distribution of a specific  
22 product or products containing the chemical. Manufacturers may not  
23 use a chemical determined by the department, based on the evaluation  
24 of the chemical safety committee, to be an unsuitable alternative to  
25 replace a chemical restricted under this section.

26 (2) The department shall establish reasonable deadlines for  
27 manufacturers to comply with any prohibition adopted under subsection  
28 (1) of this section. In setting reasonable deadlines, the department  
29 shall consider information such as existing product inventory. No  
30 prohibition may take effect sooner than twelve months after rule  
31 adoption.

32 (3) Manufacturers of a product that is subject to a chemical  
33 content prohibition shall make available within ninety days of a  
34 request by the department a certificate of compliance stating that  
35 the product meets the requirements of the prohibition adopted under  
36 subsection (1) of this section. A certificate of compliance must  
37 include the following:

1 (a) Chemical names and chemical abstracts service registry  
2 numbers for all chemicals that currently contribute to the specific  
3 function previously served by the prohibited chemical;

4 (b) How the manufacturer is meeting the function of the  
5 prohibited chemical with a safer alternative; and

6 (c) The signature of an authorized official of the manufacturer.

7 NEW SECTION. **Sec. 10.** (1) A manufacturer violating a  
8 requirement of this chapter, a rule adopted under this chapter, or an  
9 order issued under this chapter, is subject to a civil penalty not to  
10 exceed five thousand dollars for each violation in the case of a  
11 first offense. Manufacturers who are repeat violators are subject to  
12 a civil penalty not to exceed ten thousand dollars for each repeat  
13 offense.

14 (2) Any penalty provided for in this section, and any order  
15 issued by the department under this chapter, maybe appealed to the  
16 pollution control hearings board.

17 (3) All penalties collected under this chapter shall be deposited  
18 in the state toxics control account created in RCW 70.105D.070.

19 NEW SECTION. **Sec. 11.** Manufacturers submitting information or  
20 records to the department may request that the information or records  
21 be made available only for the confidential use of the director, the  
22 department, or the appropriate division of the department. The  
23 director shall give consideration to the request and if such action  
24 would not be detrimental to the public interest and is otherwise  
25 within accord with the policies and purposes of chapter 43.21A RCW,  
26 the director may grant the request for the information to remain  
27 confidential as authorized in RCW 43.21A.160. Records kept  
28 confidential by the department may be shared with the chemical safety  
29 committee established in section 6 of this act. Under the procedures  
30 established under RCW 43.21A.160, the department must keep  
31 confidential any records furnished by a manufacturer under this  
32 chapter that relate to proprietary manufacturing processes or  
33 chemical formulations used in products or processes.

34 NEW SECTION. **Sec. 12.** The department may adopt rules as  
35 necessary for the purpose of implementing, administering, and  
36 enforcing this chapter.

1        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 39.26  
2    RCW to read as follows:

3        (1) The department shall establish purchasing and procurement  
4    policies that provide a preference for products and products in  
5    packaging that do not contain persistent, bioaccumulative, and toxic  
6    chemicals as defined in chapter 173-333 WAC as of the effective date  
7    of this section.

8        (2) No agency may knowingly purchase products or products in  
9    packaging containing chemicals identified in subsection (1) of this  
10   section unless there is no cost-effective and technologically  
11   feasible alternative. When all available products contain a chemical  
12   identified in subsection (1) of this section, a preference must be  
13   given to alternative products that contain lesser amounts of  
14   chemicals identified in subsection (1) of this section.

15       (3) Nothing in this section requires the department or any other  
16   state agency to breach an existing contract or dispose of stock that  
17   has been ordered or is in the possession of the department or other  
18   state agency as of the effective date of this section.

19       (4) This section does not require the department or any other  
20   agency to test every product procured.

21       (5) The department or any other agency may request suppliers of  
22   products to provide testing data from an accredited laboratory or  
23   testing facility documenting levels of a chemical identified in  
24   subsection (1) of this section in products or product packaging.  
25   Requested or voluntarily received testing data from businesses,  
26   manufacturers, organizations, and individuals must be submitted for  
27   review to the department of ecology.

28        **Sec. 14.**    RCW 43.21B.110 and 2013 c 291 s 33 are each amended to  
29   read as follows:

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

37        (a) Civil penalties imposed pursuant to RCW 18.104.155,  
38   70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,

1 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and  
2 90.64.102.

3 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
4 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
5 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

18 (f) Decisions of local health departments regarding the issuance  
19 and enforcement of permits to use or dispose of biosolids under RCW  
20 70.95J.080.

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

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

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

34 (j) Decisions of the department of natural resources, the  
35 department of fish and wildlife, and the department that are  
36 reviewable under chapter 76.09 RCW, and the department of natural  
37 resources' appeals of county, city, or town objections under RCW  
38 76.09.050(7).

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

1 (l) Decisions of the department of fish and wildlife to issue,  
2 deny, condition, or modify a hydraulic project approval permit under  
3 chapter 77.55 RCW.

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 (o) Decisions regarding a restriction, order, or penalty issued  
11 under chapter 70.--- RCW (the new chapter created in section 17 of  
12 this act).

13 (2) The following hearings shall not be conducted by the hearings  
14 board:

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

17 (b) Hearings conducted by the department pursuant to RCW  
18 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
19 90.44.180.

20 (c) Appeals of decisions by the department under RCW 90.03.110  
21 and 90.44.220.

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

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

27 **Sec. 15.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to  
28 read as follows:

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

36 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
37 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250,  
38 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and  
39 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, 86.16.020, 88.46.070,  
3 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

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

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

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

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

35 (j) Forest health hazard orders issued by the commissioner of  
36 public lands under RCW 76.06.180.

37 (k) Decisions of the department of fish and wildlife to issue,  
38 deny, condition, or modify a hydraulic project approval permit under  
39 chapter 77.55 RCW.

1 (l) Decisions of the department of natural resources that are  
2 reviewable under RCW 78.44.270.

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

7 (n) Decisions regarding a restriction, order, or penalty issued  
8 under chapter 70.--- RCW (the new chapter created in section 17 of  
9 this act).

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 NEW SECTION. Sec. 16. If specific funding for the purposes of  
25 this act, referencing this act by bill or chapter number, is not  
26 provided by June 30, 2015, in the omnibus appropriations act, this  
27 act is null and void.

28 NEW SECTION. Sec. 17. Sections 1 through 12 of this act  
29 constitute a new chapter in Title 70 RCW.

30 NEW SECTION. Sec. 18. A new section is added to chapter 43.131  
31 RCW to read as follows:

32 The chemical safety committee established in section 6 of this  
33 act and authority of the department of ecology to do the following  
34 under the authority of chapter 70.--- RCW (the new chapter created in  
35 section 17 of this act) expires June 30, 2025: Require manufacturers  
36 to provide information on chemicals and conduct alternatives  
37 assessments; prepare summary reports on alternatives assessments;

1 prohibit the use of chemicals and the sale, offer for sale, or  
2 distribution of a product containing a prohibited chemical; and  
3 assess penalties.

4 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.131  
5 RCW to read as follows:

6 The following acts or parts of acts, as now existing or hereafter  
7 amended, are each repealed, effective June 30, 2026:

- 8 (1) Section 1 of this act;
- 9 (2) Section 2 of this act;
- 10 (3) Section 3 of this act;
- 11 (4) Section 4 of this act;
- 12 (5) Section 5 of this act;
- 13 (6) Section 6 of this act;
- 14 (7) Section 7 of this act;
- 15 (8) Section 8 of this act;
- 16 (9) Section 9 of this act;
- 17 (10) Section 10 of this act;
- 18 (11) Section 11 of this act; and
- 19 (12) Section 12 of this act.

20 NEW SECTION. **Sec. 20.** This act may be known and cited as the  
21 toxics reduction act.

22 NEW SECTION. **Sec. 21.** Section 14 of this act expires June 30,  
23 2019.

24 NEW SECTION. **Sec. 22.** Section 15 of this act takes effect June  
25 30, 2019.

26 NEW SECTION. **Sec. 23.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

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