

NEW SECTION. Sec. 7. Any manufacturer of controlled substances licensed or registered in a state requiring such licensure or registration, may bring injunctive or other action against a manufacturer or distributor of imitation controlled substances in this state.

NEW SECTION. Sec. 8. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. Sections 2 through 8 of this act shall constitute a new chapter in Title 69 RCW.

NEW SECTION. Sec. 10. This act shall take effect on July 1, 1982.

Passed the House March 9, 1982.

Passed the Senate March 7, 1982.

Approved by the Governor April 1, 1982.

Filed in Office of Secretary of State April 1, 1982.

CHAPTER 172

[House Bill No. 883]

HAZARDOUS MATERIALS INCIDENTS—LIABILITY

AN ACT Relating to hazardous materials liability; adding new sections to chapter 4.24 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. It is the intent of the legislature to promote and encourage advance planning, cooperation, and mutual assistance between applicable political subdivisions of the state and persons with equipment, personnel, and expertise in the handling of hazardous materials incidents, by establishing limitations on liability for those persons responding in accordance with the provisions of sections 2 through 7 of this act.

NEW SECTION. Sec. 2. The definitions set forth in this section apply throughout sections 1 through 7 of this act.

(1) "Hazardous materials" means:

(a) Materials which, if not contained may cause unacceptable risks to human life within a specified area adjacent to the spill, seepage, fire, explosion, or other release, and will, consequently, require evacuation;

(b) Materials that, if spilled, could cause unusual risks to the general public and to emergency response personnel responding at the scene;

(c) Materials that, if involved in a fire will pose unusual risks to emergency response personnel;

(d) Materials requiring unusual storage or transportation conditions to assure safe containment; or

(c) Materials requiring unusual treatment, packaging, or vehicles during transportation to assure safe containment.

(2) "Applicable political subdivisions of the state" means cities, towns, counties, fire districts, and those port authorities with emergency response capabilities.

(3) "Person" means an individual, partnership, corporation, or association.

(4) "Hazardous materials incident" means an incident creating a danger to persons, property, or the environment as a result of spillage, seepage, fire, explosion, or release of hazardous materials, or the possibility thereof.

(5) "Governing body" means the elected legislative council, board, or commission or the chief executive of the applicable political subdivision of the state with public safety responsibility.

(6) "Incident commander" means the commanding officer at the incident scene who is representing the designated hazardous materials incident command agency.

(7) "Representative" means an agent of the incident commander from the designated hazardous materials incident command agency with the authority to secure the services of persons with hazardous materials expertise or equipment.

(8) "Profit" means compensation for rendering care, assistance, or advice in excess of expenses actually incurred.

NEW SECTION. Sec. 3. Hazardous materials incident command agencies, so designated by all applicable political subdivisions of the state, are authorized and encouraged, prior to a hazardous materials incident, to enter individually or jointly into written hazardous materials emergency assistance agreements with any person whose knowledge or expertise is deemed potentially useful.

NEW SECTION. Sec. 4. The governing body of each applicable political subdivision of this state shall designate a hazardous materials incident command agency within its respective boundaries, and file this with the director of the state department of emergency services or its successor agency. In designating an incident command agency, the political subdivision shall consider the training, manpower, expertise, and equipment of various available agencies as well as the Uniform Fire Code and other existing codes and regulations. Along state and interstate highway corridors, the Washington state patrol shall be the designated incident command agency unless by mutual agreement that role has been assumed by another designated incident command agency. If a political subdivision has not designated an incident command agency within six months after the effective date of this act, the chief of the Washington state patrol shall be so notified by that political subdivision. The Washington state patrol shall then assume the role of incident command agency until a designation is made.

NEW SECTION. Sec. 5. Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct, if:

(1) The political subdivision has designated a hazardous materials incident command agency as required in section 4 of this act; and

(2) The designated incident command agency and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms and conditions of section 6 of this act, except as specified in section 7 of this act;

(3) The request for assistance comes from the designated incident command agency.

NEW SECTION. Sec. 6. Hazardous materials emergency assistance agreements which are executed prior to a hazardous materials incident shall include the following terms and conditions:

(1) The person requested to assist shall not be obligated to assist;

(2) The person requested to assist may act only under the direction of the incident commander or his representative;

(3) The person requested to assist may withdraw his assistance if he deems the actions or directions of the incident commander to be contrary to accepted hazardous materials response practices;

(4) The person requested to assist shall not profit from rendering the assistance;

(5) The person requested to assist shall not be a public employee acting in his official capacity within the boundaries of his political subdivision;

(6) Any person responsible for causing the hazardous materials incident shall not be covered by the liability standard defined in section 5 of this act.

It is the responsibility of both parties to ensure that mutually agreeable procedures are established for identifying the designated incident command agency when assistance is requested, for recording the name of the person whose assistance is requested, and the time and date of the request, which records shall be retained for three years by the designated incident command agency. A copy of the official incident command agency designation shall be a part of the assistance agreement specified in this section.

NEW SECTION. Sec. 7. (1) Verbal hazardous materials emergency assistance agreements may be entered into at the scene of an incident where execution of a written agreement prior to the incident is not possible. A notification of the terms of this section shall be presented at the scene by the incident commander or his representative to the person whose assistance is requested. The incident commander and the person whose assistance is requested shall both sign the notification which appears in subsection (2) of this section, indicating the date and time of signature. If a requesting agency deliberately misrepresents individual or agency status, that agency shall

assume full liability for any damages resulting from the actions of the person whose assistance is requested, other than those damages resulting from gross negligence or wilful or wanton misconduct.

(2) The notification required by subsection (1) of this section shall be in substantially the following form:

NOTIFICATION OF "GOOD SAMARITAN" LAW

You have been requested to provide emergency assistance by a representative of a designated hazardous materials incident command agency. To encourage your assistance, the Washington state legislature has passed "Good Samaritan" legislation (chapter 4.24 RCW, part) to protect you from potential liability. The law reads, in part:

"Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct."

The law requires that you be advised of certain conditions to ensure your protection:

1. You are not obligated to assist and you may withdraw your assistance at any time.
2. You cannot profit from assisting.
3. You must agree to act under the direction of the incident commander.
4. You are not covered by this law if you caused the initial accident or if you are a public employee doing your official duty.

I have read and understand the above.

(Name) _____

Date _____ Time _____

I am a representative of a designated hazardous materials incident command agency and I am authorized to make this request for assistance.

(Name) _____

(Agency) _____

Date _____ Time _____

NEW SECTION. Sec. 8. Sections 1 through 7 of this act are added to chapter 4.24 RCW.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House February 15, 1982.

Passed the Senate March 11, 1982.

Approved by the Governor April 1, 1982.

Filed in Office of Secretary of State April 1, 1982.

CHAPTER 173

[Substitute House Bill No. 419]

REFORESTATION—NOTICE OF OBLIGATION

AN ACT Relating to reforestation; amending section 7, chapter 137, Laws of 1974 ex. sess. as amended by section 4, chapter 200, Laws of 1975 1st ex. sess. and RCW 76.09.070; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 7, chapter 137, Laws of 1974 ex. sess. as amended by section 4, chapter 200, Laws of 1975 1st ex. sess. and RCW 76.09.070 are each amended to read as follows:

After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the board shall be completed within three years: PROVIDED, That a longer period may be authorized if seed or seedlings are not available: PROVIDED FURTHER, That a period of up to five years may be allowed where a natural regeneration plan is approved by the department. Upon the completion of a reforestation operation a report on such operation shall be filed with the department of natural resources. Within twelve months of receipt of such a report the department shall inspect the reforestation operation, and shall determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

Satisfactory reforestation is the obligation of the owner of the land as defined by forest practices regulations, except the owner of perpetual rights to cut timber owned separately from the land is responsible for satisfactory reforestation. The reforestation obligation shall become the obligation of a new owner if the land or perpetual timber rights are sold or otherwise transferred.

Prior to the sale or transfer of land or perpetual timber rights subject to a reforestation obligation, the seller shall notify the buyer of the existence and nature of the obligation and the buyer shall sign a notice of reforestation obligation indicating the buyer's knowledge thereof. The notice shall be on a form prepared by the department and shall be sent to the department by the seller at the time of sale or transfer of the land or perpetual timber rights. If the seller fails to notify the buyer about the reforestation obligation, the seller shall pay the buyer's costs related to reforestation, including all legal costs which include reasonable attorneys' fees, incurred by the