

With the exception of section 2, Substitute Senate Bill No. 5889 is approved.*

CHAPTER 422

[Substitute Senate Bill No. 5566] SAFE DRINKING WATER ACT

AN ACT Relating to safe drinking water; amending RCW 70.119A.020, 70.119A.030, 70.119A.040, 70.119A.050, 43.20.050, 70.119.020, and 70.116.030; adding new sections to chapter 70.119A RCW; creating a new section; and repealing RCW 70.119A.010.

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

NEW SECTION. Sec. 1. This act shall be known and cited as the "Washington state safe drinking water act."

Sec. 2. Section 2, chapter 271, Laws of 1986 and RCW 70.119A.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Local board of health" ~~((has the meaning in RCW 70.05.010))~~ means the city, town, county, or district board of health.

(3) "Local health jurisdiction" means an entity created under chapter 70.05, 70.08, or 70.46 RCW which provides public health services to persons within the area.

(4) "Public water ~~((supply system" has the meaning in RCW 70.119-020))~~ system" means any system, excluding a system serving only one single-family residence, which provides piped water for human consumption, including:

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

~~((4))~~ (5) "Order" means a written direction to comply with a provision of the regulations adopted under RCW 43.20.050(2)(a) or 70.119.050 or to take an action or a series of actions to comply with the regulations ~~((; allowing a reasonable time to comply without penalty and shall consider the ability of the public water supply system to prevent or correct the violation))~~.

~~((5))~~ (6) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual, or cooperative association, institution, partnership, or person or any other entity, that owns or operates a public water system. It also means the authorized agents of any such entities.

(7) "Regulations" means ~~((the provisions of chapter 248-54 WAC, as it may be amended, or any regulations that supersede chapter 248-54 WAC~~

~~and are adopted under the authority of RCW 43.20.050(2)(a)) rules adopted to carry out the purposes of this chapter.~~

(8) "Federal safe drinking water act" means the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or hereafter amended.

(9) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county, or district public health department.

(10) "Person" includes, but is not limited to, natural persons, municipal corporations, governmental agencies, firms, companies, mutual or cooperative associations, institutions, and partnerships. It also means the authorized agents of any such entities.

(11) "Public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.

(12) "Secretary" means the secretary of the department of social and health services.

(13) "State board of health" is the board created by RCW 43.20.030.

NEW SECTION. Sec. 3. A new section is added to chapter 70.119A RCW to read as follows:

(1) In order to assure safe and reliable public drinking water and to protect the public health, public water systems shall:

(a) Protect the water sources used for drinking water;

(b) Provide treatment adequate to assure that the public health is protected;

(c) Provide and effectively operate and maintain public water system facilities;

(d) Plan for future growth and assure the availability of safe and reliable drinking water;

(e) Take whatever investigative or corrective action is necessary to assure that a safe and reliable drinking water supply is continuously available to users.

(2) The department and local health jurisdictions shall carry out the rules and regulations of the state board of health adopted pursuant to RCW 43.20.050(2)(a) and other rules adopted by the department relating to public water systems.

NEW SECTION. Sec. 4. A new section is added to chapter 70.119A RCW to read as follows:

The department may enter into contracts to carry out the purposes of this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 70.119A RCW to read as follows:

(1) The department shall administer a drinking water program which includes, but is not limited to, those program elements necessary to assume primary enforcement responsibility for part B, and section 1428 of part C of the federal safe drinking water act. No rule or regulation promulgated or implemented by the department of social and health services or the state board of health for the purpose of compliance with the requirements of the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., shall be applicable to public water systems to which that federal law is not applicable, unless the department or the state board determines that such rule or regulation is necessary for the protection of public health.

(2) The department shall enter into an agreement of administration with the department of ecology and any other appropriate agencies, to administer the federal safe drinking water act.

(3) The department is authorized to accept federal grants for the administration of a primary program.

Sec. 6. Section 3, chapter 271, Laws of 1986 and RCW 70.119A.030 are each amended to read as follows:

(1) The secretary or his or her designee or the local health officer may declare a public health emergency. As limited by RCW 70.119A.040, the department may impose penalties for violations of laws or regulations that are determined ~~((by the health officer to be an imminent or actual))~~ to be a public health emergency.

(2) As limited by RCW 70.119A.040, the department may impose penalties for failure to comply with an order of the department, or of an authorized local board of health, when the order:

(a) Directs any person to stop work on the construction or alteration of a public water ~~((supply))~~ system when plans and specifications for the construction or alteration have not been approved as required by the regulations, or when the work is not being done in conformity with approved plans and specifications;

(b) Requires any person to eliminate a cross-connection to a public water ~~((supply))~~ system by a specified time; or

(c) ~~((Directs the owner or operator of a public water supply system))~~ Requires any person to cease violating any ~~((other))~~ regulation relating to public water ~~((supply))~~ systems, or to take specific actions within a specified time to place a public water ~~((supply))~~ system in compliance with ~~((any other))~~ regulations adopted under chapters 43.20 and 70.119 RCW.

***Sec. 7. Section 4, chapter 271, Laws of 1986 and RCW 70.119A.040 are each amended to read as follows:**

(1) In addition to or as an alternative to any other penalty provided by law, every person who commits any of the acts or omissions in RCW 70.119A.030 shall be subjected to a penalty in an amount of not more than five thousand dollars per day for every such violation. Every such violation shall be a separate and distinct offense. The amount of fine shall reflect the health

significance of the violation and the previous record of compliance on the part of the public water supplier. In case of continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty provided in this section.

(2) The penalty provided for in this section shall be imposed by a notice in writing ~~(either by certified mail with return receipt requested or by personal service,)~~ to the person ~~(incurring the same from the department, describing)~~ against whom the civil fine is assessed and shall describe the violation ~~(with reasonable particularity)~~. The notice shall be personally served in the manner of service of a summons in a civil action or in a manner which shows proof of receipt. Any penalty imposed by this section becomes due and payable twenty-eight days after receipt of notice unless application for remission or mitigation is made as provided in subsection (3) of this section or unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.

(3) Within ~~(fifteen)~~ fourteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper, giving consideration to the degree of hazard associated with the violation, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner ~~(and under such rules)~~ as it may deem proper. ~~(Any penalty imposed by this section shall be subject to review by the office of administrative hearings in accordance with chapter 34.12 RCW)~~ When an application for remission or mitigation is made, any penalty incurred pursuant to this section shall become due and payable twenty-eight days after receipt of notice setting forth the disposition of such application, unless an application for an adjudicative proceeding to contest the disposition is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW, and applicable rules of the department or board of health.

~~((3))~~ (5) Any penalty imposed by ~~(this section)~~ final order following an adjudicative proceeding shall become due and payable ~~(thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or petition for review is filed directly to the office of administrative hearings within thirty days of the imposition of the penalty.~~ When such an application for remission or mitigation is made, any penalty

~~incurred pursuant to this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application. Any penalty resulting from a decision of the office of administrative hearings shall become due and payable thirty days after receipt of the notice setting forth the decision)) upon service of the final order.~~

~~((4) If the amount of any penalty is not paid within thirty days after it becomes due and payable,)) (6) The attorney general((, upon the request of the secretary of the department, shall)) is authorized to bring an action in the name of the ((state of Washington)) department in the superior court of Thurston county, or of any county in which such violator may do business, to ((recover such)) collect any penalty imposed under this chapter. ((In all such actions, the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided:~~

~~(5)) (7) All penalties imposed under this section shall be payable to the state treasury and credited to the general fund.~~

*Sec. 7 was vetoed, see message at end of chapter.

Sec. 8. Section 5, chapter 271, Laws of 1986 and RCW 70.119A.050 are each amended to read as follows:

Each local board of health that is enforcing the regulations under an agreement with the department allocating state and local responsibility is authorized to impose civil penalties for violations within the area of its responsibility under the same limitations and requirements ((as)) imposed upon the department ((in)) by RCW 70.119A.030 and 70.119A.040, except that ((the)) penalties shall be placed into the general fund of the county, city, or town operating the local board of health, and the prosecuting attorney, or city, or town attorney shall bring the actions to collect the unpaid penalties.

*Sec. 9. Section 43.20.050, chapter 8, Laws of 1965 as last amended by section 1, chapter 213, Laws of 1985 and RCW 43.20.050 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is empowered to hold hearings and explore ways to improve the health status of the citizenry.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules and regulations ~~((for the protection of water supplies for domestic use, and such other uses as may affect the public health, and shall adopt standards and procedures governing the design, construction and operation of water supply, treatment, storage, and distribution facilities, as well as the quality of water delivered to the ultimate consumer,))~~ necessary to assure safe and reliable public drinking water and to protect the public health. Such rules and regulations shall establish requirements regarding:

(i) The design and construction of public water system facilities;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;
(iv) Public water system planning and emergency response requirements;
(v) Public water system operation and maintenance requirements; and
(vi) Water quality, reliability, and management of existing but inadequate public water systems.

(b) *Adopt rules and regulations and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;*

(c) *Adopt rules and regulations controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;*

(d) *Adopt rules and regulations for the imposition and use of isolation and quarantine; and*

(e) *Adopt rules and regulations for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules and regulations governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule.*

(3) *All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules and regulations adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.*

*Sec. 9 was vetoed, see message at end of chapter.

*Sec. 10. *Section 2, chapter 99, Laws of 1977 ex. sess. as amended by section 2, chapter 292, Laws of 1983 and RCW 70.119.020 are each amended to read as follows:*

As used in this chapter unless context requires another meaning:

(1) *"Board"* means the board established pursuant to RCW 70.95B.070 which shall be known as the water and waste water operator certification board of examiners.

(2) *"Certificate"* means a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.

(3) *"Department"* means the department of social and health services.

(4) "Distribution system" means that portion of a public water ((supply)) system which stores, transmits, pumps and distributes water to consumers.

(5) "Nationally recognized association of certification authorities" shall mean an organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and waste water facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones.

(6) "Certified operator" means an individual employed or appointed by any county, water district, municipality, public or private corporation, company, institution, person, or the state of Washington who is designated by the employing or appointing officials as the person responsible for active daily technical operation.

~~(7) "Public water ((supply system" means any water supply system intended or used for human consumption or other domestic uses, including source, treatment, storage, transmission and distribution facilities where water is furnished to any community or group of individuals, or is made available to the public for human consumption or domestic use, but excluding all water supply systems serving one single-family residence)) system" means any system, excluding a system serving fewer than five single-family residences, which provides piped water for human consumption, including:~~

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(8) "Purification plant" means that portion of a public water ((supply)) system which treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards.

(9) "Secretary" means the secretary of the department of social and health services.

*Sec. 10 was vetoed, see message at end of chapter.

*Sec. 11. Section 3, chapter 142, Laws of 1977 ex. sess. and RCW 70-.116.030 are each amended to read as follows:

Unless the context clearly requires otherwise, the following terms when used in this chapter shall be defined as follows:

(1) "Coordinated water system plan" means a plan for public water systems within a critical water supply service area which identifies the present and future needs of the systems and sets forth means for meeting those needs in the most efficient manner possible. Such a plan shall include provisions for subsequently updating the plan. In areas where more than one water system exists, a coordinated plan may consist of either: (a) A new plan developed for

the area following its designation as a critical water supply service area; or (b) a compilation of compatible water system plans existing at the time of such designation and containing such supplementary provisions as are necessary to satisfy the requirements of this chapter. Any such coordinated plan must include provisions regarding: Future service area designations; assessment of the feasibility of shared source, transmission, and storage facilities; emergency inter-ties; design standards; and other concerns related to the construction and operation of the water system facilities.

(2) "Critical water supply service area" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

(3) (a) "Public water system" means any system ((providing water intended for, or used for, human consumption or other domestic uses. It includes, but is not limited to, the source, treatment for purifying purposes only, storage, transmission, pumping, and distribution facilities where water is furnished to any community, or number of individuals, or is made available to the public for human consumption or domestic use, but excluding water systems serving one single family residence. However, systems existing on September 21, 1977 which are owner operated and serve less than ten single family residences or which serve only one industrial plant shall be excluded from this definition and the provisions of this chapter)), excluding a system serving fewer than five single-family residences, which provides piped water for human consumption, including:

(i) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(ii) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(b) Systems existing on September 21, 1977, which are owner-operated and serve less than ten single-family residences or serve only one industrial plant are excluded from this definition and the provisions of this chapter.

(4) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates ((for wholesale or retail service)) a public water system. It also means the authorized agents of any such entities.

(5) "Secretary" means the secretary of the department of social and health services or the secretary's authorized representative.

(6) "Service area" means a specific geographical area serviced or for which service is planned by a purveyor.

*Sec. 11 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 12. Section 1, chapter 271, Laws of 1986 and RCW 70.119A.010 are each repealed.

Passed the Senate March 10, 1989.

Passed the House April 19, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 7, 9, 10 and 11, Engrossed Substitute Senate Bill No. 5566 entitled:

"AN ACT Relating to safe drinking water."

Section 7 amends RCW 70.119A.040, which was also amended by House Bill 1358, the Administrative Procedure Act revision bill. The amendment in this bill has the same intent as the amendment in House Bill 1358, but the language is conflicting. Since I have already signed House Bill 1358 into law, I am vetoing Section 7.

Section 9 amends RCW 43.20.050, which was also amended by House Bill 1857. Both bills amend the rule-making authority of the Board of Health with respect to drinking water systems. The only difference between the two amendments is that House Bill 1857 gives additional authority to the Board for regulating the sizing of pipes and storage facilities. This language is more explicit than the language in section 9 of Engrossed Substitute Senate Bill 5566. Since I have already signed House Bill 1857 into law, I am vetoing section 9.

Sections 10 and 11 amend the Public Water Supply Systems - Certification and Regulation of Operators Act, and the Public Water System Coordination Act of 1977, respectively. Both sections amend the definition of a public water supply system to exclude water systems serving fewer than five single-family residences. The current language, and the definition of public water supply system in the Safe Drinking Water Act, exclude only water systems that serve a single-family residence.

The exclusions in sections 10 and 11 would exempt over 4,000 small water systems from regulation, leaving these households without protection of their drinking water. People whose homes connect with small water systems deserve, and expect, the same quality of water as people whose homes are connected to larger systems. It is appropriate for the state, in its role of protecting public health, to assist small water systems in complying with safe drinking water regulations.

With the exception of sections 7, 9, 10, and 11, Engrossed Substitute Senate Bill No. 5566 is approved."

CHAPTER 423

[Substitute House Bill No. 2137]

ECONOMIC DEVELOPMENT—TARGETED SECTORS PROGRAMS— BIOTECHNOLOGY AND FOOD PROCESSING

AN ACT Relating to targeted sectors for economic development; and adding new sections to chapter 43.31 RCW.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the future health of certain sectors of Washington state's economy is at risk in the face of increasing global competition. The service and aerospace industries have