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HOUSE BILL 2547

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State of Washington                      64th Legislature                      2016 Regular Session

By Representatives Pollet, Farrell, Senn, Orwall, and Walkinshaw

1            AN ACT Relating to ensuring that recreational facilities with  
2 synthetic turf materials are not a hazard to public health; amending  
3 RCW 43.21B.110 and 43.21B.110; adding a new chapter to Title 70 RCW;  
4 prescribing penalties; providing an effective date; and providing an  
5 expiration date.

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

7            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that synthetic  
8 turf fields are currently constructed using material from used tires.  
9 Used tires often contain a variety of hazardous substances that are  
10 widely acknowledged to pose a danger to public health. The  
11 legislature intends that children should not be exposed to levels of  
12 hazardous substances at playgrounds and playing fields that create  
13 higher risk than the state allows from exposures at contaminated  
14 sites where a toxic or hazardous substance has been released. When an  
15 industrial site contains high levels of these chemicals, in order to  
16 protect public health the operator of that site is required to clean  
17 it up by removing the hazardous substances. Nevertheless, materials  
18 containing high levels of these hazardous substances are currently  
19 being used for recreational facilities without any consideration of  
20 the associated health risks posed by frequent exposure by children,  
21 athletes, and others that frequently use synthetic turf facilities.

1 Unfortunately, anecdotal and unpublished reports have also begun to  
2 emerge that certain high-exposure population groups, including soccer  
3 goalies, may suffer higher rates of cancer than the general  
4 population. Currently, these reports have not been able to be more  
5 thoroughly evaluated because the state and other governments have not  
6 yet devoted sufficient resources and attention to tracking and  
7 corroborating the health risks associated with synthetic turf  
8 facilities.

9 (2) In light of the emerging evidence that synthetic turf fields  
10 containing used tire material threaten the health of children and the  
11 public, it is the intent of the legislature to:

12 (a) Establish reasonable procedures for the testing of used tire  
13 material used in recreational facilities to protect against the toxic  
14 and cancer-causing releases of hazardous substances;

15 (b) Establish a warning system for parents and other recreational  
16 facility users regarding the possible health risks associated with  
17 the use of the synthetic turf at the facility; and

18 (c) Collect additional information about the health risks  
19 associated with use of synthetic turf facilities.

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

23 (1) "Department" means the department of ecology.

24 (2) "Hazardous substance" has the same meaning as defined in RCW  
25 70.105D.020.

26 (3) "Manufacturer" means any person that:

27 (a) Produces synthetic turf that contains ground or crumb rubber  
28 from waste tires and that is sold or offered for sale in or into the  
29 state;

30 (b) Is an importer or domestic distributor of a synthetic turf  
31 sold or offered for sale in or into the state; or

32 (c) Constructs or installs fields, playgrounds, or other  
33 recreational facilities that contain synthetic turf that contains  
34 ground or crumb rubber from waste tires.

35 (4) "Reasonable maximum exposure" means the highest exposure that  
36 is reasonably expected to occur for a person as a result of activity  
37 at a field, playground, or recreational facility with synthetic turf  
38 or where synthetic turf materials have migrated.

1 (5) "Recreational facility operator" means any public or private  
2 entity that makes available for public use a field, playground, or  
3 other recreational facility that contains synthetic turf.

4 (6) "Synthetic turf" means any material or composition that  
5 contains ground or crumb rubber from waste tires and that is used to  
6 cover or surface a field, playground, or other recreational facility.

7 NEW SECTION. **Sec. 3.** (1) A person may not construct, install,  
8 replace, refill, or otherwise deploy synthetic turf for use in a  
9 field, playground, or recreational facility unless the manufacturer  
10 demonstrates the safety of the synthetic turf to the department using  
11 the testing protocol established under this section based on the  
12 standards described in subsections (2) and (3) of this section.

13 (2) A manufacturer demonstration of the safety of synthetic turf  
14 must include test results from an independent laboratory certified  
15 under RCW 43.21A.230 that indicate that the synthetic turf does not  
16 cause exposures that would exceed the acceptable risks from releases  
17 at toxic waste sites subject to the model toxics control act, chapter  
18 70.105D RCW, by releasing:

19 (a) An individual hazardous substance at a level associated with  
20 an excess cancer risk rate of greater than one in one million;

21 (b) A combination of hazardous substances at levels associated  
22 with an excess cancer risk rate of greater than one in one hundred  
23 thousand; or

24 (c) A hazardous substance at a concentration in which acute or  
25 chronic toxic effects on human health exceed a hazard quotient of  
26 one, as determined by the rules adopted by the department pursuant to  
27 RCW 70.105D.030.

28 (3) A manufacturer demonstration of the safety of synthetic turf  
29 must include test results from an independent laboratory certified  
30 under RCW 43.21A.230 that indicate that the synthetic turf does not  
31 release lead, cadmium, or phthalates at levels that exceed the  
32 allowable limits for children's products under RCW 70.240.030.

33 NEW SECTION. **Sec. 4.** (1) The department and department of  
34 health shall establish a synthetic turf safety advisory committee.  
35 The synthetic turf safety advisory committee membership must include,  
36 but is not limited to:

37 (a) Independent scientists;

38 (b) Health risk professionals;

1 (c) Persons with expertise in lab testing and environmental  
2 exposure protocols;

3 (d) Representatives of multiple nonprofit organizations with  
4 expertise in consumer exposure to toxic substances; and

5 (e) The parents or legal guardians of minors who use fields,  
6 playgrounds, or recreational facilities.

7 (2) The department of health, in consultation with the  
8 department, shall adopt by rule testing procedures for determining  
9 the safety of synthetic turf. In adopting testing procedures under  
10 this section, the department and the department of health must  
11 consult the synthetic turf safety advisory committee formed in  
12 subsection (1) of this section.

13 (3) The testing procedures adopted by the department of health  
14 must:

15 (a) Replicate the use conditions for the synthetic turf,  
16 including but not limited to reasonable heat, friction, tire crumb  
17 fill displacement, and longevity conditions. The reasonable use  
18 conditions must also account for other synthetic turf use scenarios  
19 that generate high levels of fine particulate matter, as the term  
20 "fine particulate" is defined in RCW 70.94.030, or otherwise render  
21 fine particulate matter airborne and susceptible to respiration by  
22 synthetic turf users; and

23 (b) Replicate reasonable maximum exposure scenarios and pathways  
24 for high-frequency users of synthetic turf fields, playgrounds, and  
25 other recreational facilities, including but not limited to exposure  
26 pathways for young children at synthetic turf playgrounds and youth  
27 participating in organized recreational sports that require high  
28 levels of direct contact with synthetic turf.

29 NEW SECTION. **Sec. 5.** (1) A recreational facility operator must  
30 post a health advisory warning adjacent to any field, playground, or  
31 recreational facility with synthetic turf that has not been subject  
32 to a safety determination under section 3 of this act. The warning  
33 must inform potential users of the synthetic turf that:

34 (a) Hazardous substances that are toxic or that cause cancer may  
35 exist in the synthetic turf; and

36 (b) Users of the turf may be exposed to unsafe levels of  
37 hazardous substances by ingesting or breathing particles released  
38 from the synthetic turf.

1 (2) The advisory warning must include recommendations for  
2 synthetic turf users to minimize health risks associated with use of  
3 the synthetic turf field, including recommendations for preventing  
4 exposure to hazardous substances, avoiding heat exhaustion,  
5 preventing the transport and home exposure to used tire materials,  
6 and special precautions to be taken during the use of the synthetic  
7 turf by young children.

8 (3) The department of health may adopt rules to implement this  
9 section, including rules that establish the content and placement of  
10 the health advisory warning signage. In adopting rules under this  
11 section, the department of health must consult the synthetic turf  
12 safety advisory committee established pursuant to section 4 of this  
13 act.

14 NEW SECTION. **Sec. 6.** (1) The department of health shall  
15 establish a registry to track the incidence of cancer and lung  
16 diseases among high-frequency users of synthetic turf fields,  
17 playgrounds, and recreational facilities or highly exposed population  
18 groups. The department of health shall adopt rules as to what types  
19 of cancer and lung disease must be tracked by the registry, who must  
20 report to the registry, and the form and timing of reports to the  
21 registry.

22 (2) By December 1, 2019, the department of health must submit a  
23 report to the appropriate environmental and health committees of the  
24 legislature consistent with RCW 43.01.036 regarding the health risks  
25 associated with the use of synthetic turf fields. The report must  
26 include the following:

27 (a) An analysis of data from the registry in subsection (1) of  
28 this section;

29 (b) A review of research published in academic journals, by the  
30 federal government, and by other states on the health risks and  
31 effects related to the use of synthetic turf;

32 (c) An analysis of the synthetic turf exposure risks based on age  
33 group, particular exposure pathways, and longevity or frequency of  
34 exposures;

35 (d) An analysis of published studies on alternative artificial  
36 recreational field surfaces that do not use waste tires and the  
37 identification of any safer alternatives to used tire material in  
38 artificial recreational surfaces; and

1 (e) An assessment, conducted in conjunction with the department  
2 of ecology, of the safety, environmental impacts, cost, and  
3 feasibility of alternatives to the use of tire crumb from used tires  
4 in synthetic turf.

5 (3) The department of health must periodically provide updated  
6 information to the appropriate committees of the legislature as  
7 additional pertinent information based on Washington data, federal  
8 research, or research conducted by other states becomes available.

9 NEW SECTION. **Sec. 7.** (1) The department may issue an order to a  
10 recreational facility operator or manufacturer in violation of the  
11 requirements of this chapter requiring either immediate compliance or  
12 compliance within a specified period of time. Any recreational  
13 facility operator or manufacturer that fails to take corrective  
14 action as specified in an order under this section is liable for a  
15 civil penalty not to exceed ten thousand dollars for each day of  
16 continued noncompliance.

17 (2) Penalties and orders issued by the department under this  
18 section are appealable to the pollution control hearings board  
19 pursuant to chapter 43.21B RCW.

20 **Sec. 8.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to  
21 read as follows:

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

29 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
30 70.94.431, 70.105.080, 70.107.050, section 7 of this act, 76.09.170,  
31 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
32 90.56.310, 90.56.330, and 90.64.102.

33 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
34 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 7 of this act,  
35 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

1 (d) Except as provided in RCW 90.03.210(2), the issuance,  
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 (e) Decisions of local health departments regarding the grant or  
10 denial of solid waste permits pursuant to chapter 70.95 RCW.

11 (f) 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 (g) 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 (h) 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 (i) 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.

27 (j) Decisions of the department of natural resources, the  
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  
31 76.09.050(7).

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

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

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

39 (n) Decisions of an authorized public entity under RCW 79.100.010  
40 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings  
2 board under RCW 79.100.120.

3 (2) The following hearings shall not be conducted by the hearings  
4 board:

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

7 (b) Hearings conducted by the department pursuant to RCW  
8 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
9 90.44.180.

10 (c) Appeals of decisions by the department under RCW 90.03.110  
11 and 90.44.220.

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

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

17 **Sec. 9.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to  
18 read as follows:

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

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28 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
29 90.56.310, 90.56.330, and 90.64.102.

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34 modification, or termination of any permit, certificate, or license  
35 by the department or any air authority in the exercise of its  
36 jurisdiction, including the issuance or termination of a waste  
37 disposal permit, the denial of an application for a waste disposal  
38 permit, the modification of the conditions or the terms of a waste



1 disposal permit, or a decision to approve or deny an application for  
2 a solid waste permit exemption under RCW 70.95.300.

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

5 (e) Decisions of local health departments regarding the issuance  
6 and enforcement of permits to use or dispose of biosolids under RCW  
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9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
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13 denial of approval or denial of certification of a dairy nutrient  
14 management plan; conditions contained in a plan; application of any  
15 dairy nutrient management practices, standards, methods, and  
16 technologies to a particular dairy farm; and failure to adhere to the  
17 plan review and approval timelines in RCW 90.64.026.

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19 which pursuant to law must be decided as an adjudicative proceeding  
20 under chapter 34.05 RCW.

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22 department of fish and wildlife, and the department that are  
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5 and 90.44.220.

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

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

11 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act  
12 constitute a new chapter in Title 70 RCW.

13 NEW SECTION. **Sec. 11.** Section 8 of this act expires June 30,  
14 2019.

15 NEW SECTION. **Sec. 12.** Section 9 of this act takes effect June  
16 30, 2019.

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