
Environment & Energy Committee

HB 1554

Brief Description: Reducing public health and environmental impacts from lead.

Sponsors: Representatives Doglio, Pollet, Fitzgibbon, Berry, Ramel, Orwall, Ryu, Fosse, Kloba, Macri and Duerr.

Brief Summary of Bill

- Phases in a restriction on leaded aviation gas beginning January 1, 2026 at airports on land adjacent to a contaminated site in an overburdened community in Seattle, two years later at airports in other urban growth areas, and in 2030 at other airports in Washington.
- Directs the Department of Ecology (Ecology), in consultation with the Department of Transportation and Department of Health, to develop guidance identifying best management practices for reducing lead exposures from airport operations, with an initial publication by July 1, 2024, and periodic updates beginning in 2026.
- Requires airport operators to submit and implement a plan to minimize lead exposures based on Ecology's guidance and best practices identified by the National Academies of Sciences, Engineering, and Medicine, beginning November 1, 2024, and to develop a plan and budget to finance aircraft fueling infrastructure improvements to allow for the supply of unleaded aviation gasoline on the same timeline as the phase-out of leaded gasoline.
- Directs Ecology to offer technical assistance to airport operators that have not submitted an adequate lead exposure minimization plan or that does not implement its plan, and authorizes Ecology to adopt rules to implement, administer and enforce requirements related to leaded aviation gasoline.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Prescribes civil penalties for violations of leaded aviation gasoline sales and lead exposure minimization plan requirements, directs local air pollution control authorities created under the federal Clean Air Act to enforce requirements in areas of Washington where they have jurisdiction, and directs Ecology to enforce requirements in areas of the state without air pollution control authorities. Makes penalties appealable to the Pollution Control Hearings Board.

Hearing Date: 1/31/23

Staff: Jacob Lipson (786-7196).

Background:

State Regulations and Programs Related to Lead.

State law restricts lead in various consumer products:

- under the Children's Safe Products Act, lead is restricted in children's products at a level of 40 parts per million (ppm);
- lead wheel weights must be replaced with environmentally preferred wheel weights whenever tires are replaced or rebalanced; and
- concentrations of lead, cadmium, mercury, and hexavalent chromium must not exceed a sum of 100 ppm in a package or packaging component.

Other state programs related to lead in the environment include provisions related to the recycling of lead-acid vehicle batteries, certification programs for persons performing lead-based paint abatement, and programs to limit the presence of lead in drinking water.

Leaded Gasoline.

Under the federal Clean Air Act (FCAA), leaded motor vehicle gasoline was phased out between the 1970s and 1990s. In October 2022, the United States Environmental Protection Agency (EPA) proposed an endangerment determination under the FCAA that would identify emissions of lead that operate on leaded fuel as a contributor to air pollution in a manner that could endanger public health and welfare. This action was the first step in a regulatory process that could eventually lead to restrictions to lead in aviation gas under the FCAA. If the EPA finalizes its proposed endangerment finding, the EPA must then, under the FCAA, promulgate aircraft engine emission standards for lead, after undertaking a public process, and the Federal Aviation Administration (FAA) would be required to prescribe regulations to ensure compliance with these emissions standards, and to prescribe standards for aircraft fuel to control or eliminate lead emissions.

The FAA and industry partners have announced an Eliminate Aviation Gasoline Lead Emissions (EAGLE) initiative to eliminate the use of leaded aviation fuel by the end of 2030. Under the

EAGLE initiative, the FAA has published recommendations related to short-term measures that airports may take to reduce or minimize potential exposures to aircraft lead emissions. However, the FAA policies also have the effect of requiring that airports continue to offer leaded aviation gas as a condition of grants made to federally-obligated airports that receive such grants, unless the FAA approves a proposed restriction that is justified and not unreasonable or unjustly discriminatory. Under a 2018 federal budget proviso, the National Academies of Sciences, Engineering, and Medicine (NASEM) published a 2021 assessment of leaded aviation gasoline, including existing non-leaded fuel alternatives, ambient lead concentrations near airports where piston-powered general aviation aircraft are used, and mitigation measures to reduce ambient lead concentrations. The NASEM report included recommendations related to increasing the size of run-up areas used at general aviation airports, relocating run-up areas, and making other operational changes at airports to reduce lead exposures.

Clean Air Act Implementation in Washington.

The Department of Ecology (Ecology) and seven local air pollution control authorities (local air authorities) have each received approval from the EPA to administer aspects of the FCAA in Washington. Local clean air agencies have primary responsibility for administering the state and FCAA in counties which have elected to activate a local air authority or to form a multicounty air authority; in other areas of the state, Ecology is responsible for administering state and FCAA programs.

Department of Health Blood Lead Testing Guidance.

The Department of Health (DOH) recommends that healthcare providers screen children at 12 and 24 months of age to assess levels of lead in their blood, based on specified risk factors, including if a child lives in a house built before 1950, is known to have a sibling or frequent playmate with an elevated blood lead level, or has a parent or caregiver who works professionally or recreationally with lead. The DOH additionally recommends that healthcare providers should consider blood lead testing on children per the healthcare provider's clinical judgment, based on factors including whether the child lives within a kilometer of an airport or lead emitting industry.

Pollution Control Hearings Board.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review. Penalties appealable to the PCHB must generally be imposed following standard general protocols, including that the penalty must be accompanied by a notice in writing describing the violation, and specifying when the penalty must be appealed or else becomes due and payable. With some exceptions, penalties that are appealable to the PCHB are credited to the State General Fund.

Summary of Bill:

Restrictions on Leaded Aviation Gasoline.

Airports and other private or public entities that make available aviation gas to customers are prohibited from selling, distributing, or otherwise making available leaded aviation gasoline. These restrictions are phased-in to take effect:

- January 1, 2026 for airport operators and other entities on or adjacent to sites identified for contaminated site remediation under state or federal cleanup laws, in overburdened communities identified by the Department of Ecology (Ecology) under the 2021 environmental justice law or for air pollution under the 2021 Climate Commitment Act, and that are primarily in a city with a population of at least 700,000;
- January 1, 2028 for airports and other entities located within an urban growth area designated under the Growth Management Act; and
- January 1, 2030 for all other airports and entities that make available aviation gas to customers.

Lead Exposure Reduction Guidance and Plans.

Ecology, in consultation with the Department of Health (DOH) and the Department of Transportation (WSDOT), must review available information, including EPA and FAA publications, the National Academies of Sciences, Engineering, and Medicine (NASEM) report, and academic publications, to identify best management practices for reducing public health and environmental exposures to lead from airport operations. Ecology must publish initial best management practices guidance to airport operators by July 1, 2024, and update its review and guidance by July 1, 2026. Ecology must consider measures including managing run-up practices at airports; the elimination of the cast-off of leaded aviation gasoline and minimize and mitigate other spills; minimizing airport employee exposures; minimizing releases caused by refueling and maintenance activities; minimizing idle time and engine run-up time; and educating and financially incentivizing airport fuel customers to purchase unleaded gasoline when it is an option.

By November 1, 2024, airport operators that sell leaded aviation gasoline must submit to Ecology and begin implementing a plan to implement best practices identified by NASEM and based on Ecology's guidance. Airport operator plans must be updated by the November 1 following any updates to Ecology's guidance. Airport operator lead exposure minimization plans must include:

- a description of how the airport will implement the operational and logistical recommendations in Ecology's guidance; and
- a plan and budget for financing of any needed fueling infrastructure improvements to allow the airport to begin supplying unleaded aviation gasoline on the same timeline as the phase-out of leaded gasoline sales at airports;

Each airport operator must submit an annual status report to Ecology starting in December, 2025.

Other.

Ecology, in consultation with the DOH and WSDOT, must offer technical assistance to airport operators that do not submit adequate lead plans or do not implement their plans in the manner

described. Ecology may adopt rules to implement and enforce leaded aviation gas restrictions and leaded aviation gas exposure airport plans. Ecology must enforce requirements in areas of Washington where a local air pollution control authority has not been activities, and air pollution control authorities must enforce requirements in areas within their jurisdiction. Violations are subject to penalties of up to \$1,000 per day for violations. Penalties are appealable to the Pollution Control Hearings Board.

The DOH must update its blood lead testing guidance for health care providers to include children living within one kilometer of a general aviation airport among the high-risk populations that DOH recommends for a blood lead test.

A severability clause is included.

Appropriation: None.

Fiscal Note: Requested on January 24, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.