
SUBSTITUTE SENATE BILL 6086

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Energy, Environment & Telecommunications (originally sponsored by Senators Billig, Ericksen, McCoy, and Rolfes)

READ FIRST TIME 01/30/14.

1 AN ACT Relating to reducing PCBs in products purchased by agencies;
2 reenacting and amending RCW 39.26.010; adding new sections to chapter
3 39.26 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Polychlorinated biphenyls, commonly known as
6 PCBs, are a family of human-made organic chemicals that were used in
7 many industrial and commercial products such as insulating fluids for
8 electric transformers and capacitors, hydraulic fluids, plasticizers,
9 paint additives, lubricants, inks, caulk, and carbonless copy paper.
10 PCBs were used because of their fire resistance, chemical stability,
11 and electrical insulating properties. PCBs are also found in products
12 as an unintentional by-product of manufacturing processes. PCBs are
13 ubiquitous in the environment because of their stability, extensive
14 previous use, by-production in manufacturing, inadvertent release, and
15 the inability to control and eliminate them through current waste
16 management practices. PCBs are persistent, bioaccumulative, and toxic,
17 and they cycle between the air, soil, and water. PCBs have been shown
18 to cause cancer and affect the human immune, reproductive, nervous, and
19 endocrine systems. The United States toxic substances control act

1 prohibited the commercial production of PCBs in 1979. However, the
2 United States environmental protection agency rules implementing the
3 ban provides exemptions for certain products containing PCBs at
4 concentrations of fifty parts per million or less as a result of
5 manufacturing processes and therefore the continued manufacture,
6 processing, distribution, and use of products containing PCBs remains
7 permitted.

8 **Sec. 2.** RCW 39.26.010 and 2012 c 224 s 2 are each reenacted and
9 amended to read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Agency" means any state office or activity of the executive
13 and judicial branches of state government, including state agencies,
14 departments, offices, divisions, boards, commissions, institutions of
15 higher education as defined in RCW 28B.10.016, and correctional and
16 other types of institutions.

17 (2) "Bid" means an offer, proposal, or quote for goods or services
18 in response to a solicitation issued for such goods or services by the
19 department or an agency of Washington state government.

20 (3) "Bidder" means an individual or entity who submits a bid,
21 quotation, or proposal in response to a solicitation issued for such
22 goods or services by the department or an agency of Washington state
23 government.

24 (4) "Businesses owned and operated by persons with disabilities"
25 means any for-profit business certified under chapter 39.19 RCW as
26 being owned and controlled by persons who have been either:

27 (a) Determined by the department of social and health services to
28 have a developmental disability, as defined in RCW 71A.10.020;

29 (b) Determined by an agency established under Title I of the
30 federal vocational rehabilitation act to be or have been eligible for
31 vocational rehabilitation services;

32 (c) Determined by the federal social security administration to be
33 or have been eligible for either social security disability insurance
34 or supplemental security income; or

35 (d) Determined by the United States department of veterans affairs
36 to be or have been eligible for vocational rehabilitation services due
37 to service-connected disabilities, under 38 U.S.C. Sec. 3100 et seq.

1 (5) "Client services" means services provided directly to agency
2 clients including, but not limited to, medical and dental services,
3 employment and training programs, residential care, and subsidized
4 housing.

5 (6) "Community rehabilitation program of the department of social
6 and health services" means any entity that:

7 (a) Is registered as a nonprofit corporation with the secretary of
8 state; and

9 (b) Is recognized by the department of social and health services,
10 division of vocational rehabilitation as eligible to do business as a
11 community rehabilitation program.

12 (7) "Competitive solicitation" means a documented formal process
13 providing an equal and open opportunity to bidders and culminating in
14 a selection based on predetermined criteria.

15 (8) "Contractor" means an individual or entity awarded a contract
16 with an agency to perform a service or provide goods.

17 (9) "Debar" means to prohibit a contractor, individual, or other
18 entity from submitting a bid, having a bid considered, or entering into
19 a state contract during a specified period of time as set forth in a
20 debarment order.

21 (10) "Department" means the department of enterprise services.

22 (11) "Director" means the director of the department of enterprise
23 services.

24 (12) "Estimated useful life" of an item means the estimated time
25 from the date of acquisition to the date of replacement or disposal,
26 determined in any reasonable manner.

27 (13) "Goods" means products, materials, supplies, or equipment
28 provided by a contractor.

29 (14) "In-state business" means a business that has its principal
30 office located in Washington.

31 (15) "Life-cycle cost" means the total cost of an item to the state
32 over its estimated useful life, including costs of selection,
33 acquisition, operation, maintenance, and where applicable, disposal, as
34 far as these costs can reasonably be determined, minus the salvage
35 value at the end of its estimated useful life.

36 (16) "Master contracts" means a contract for specific goods or
37 services, or both, that is solicited and established by the department

1 in accordance with procurement laws and rules on behalf of and for
2 general use by agencies as specified by the department.

3 (17) "Microbusiness" means any business entity, including a sole
4 proprietorship, corporation, partnership, or other legal entity, that:
5 (a) Is owned and operated independently from all other businesses; and
6 (b) has a gross revenue of less than one million dollars annually as
7 reported on its federal tax return or on its return filed with the
8 department of revenue.

9 (18) "Minibusiness" means any business entity, including a sole
10 proprietorship, corporation, partnership, or other legal entity, that:
11 (a) Is owned and operated independently from all other businesses; and
12 (b) has a gross revenue of less than three million dollars, but one
13 million dollars or more annually as reported on its federal tax return
14 or on its return filed with the department of revenue.

15 (19) "Purchase" means the acquisition of goods or services,
16 including the leasing or renting of goods.

17 (20) "Services" means labor, work, analysis, or similar activities
18 provided by a contractor to accomplish a specific scope of work.

19 (21) "Small business" means an in-state business, including a sole
20 proprietorship, corporation, partnership, or other legal entity, that:
21 (a) Certifies, under penalty of perjury, that it is owned and
22 operated independently from all other businesses and has either:

- 23 (i) Fifty or fewer employees; or
- 24 (ii) A gross revenue of less than seven million dollars annually as
25 reported on its federal income tax return or its return filed with the
26 department of revenue over the previous three consecutive years; or

27 (b) Is certified with the office of women and minority business
28 enterprises under chapter 39.19 RCW.

29 (22) "Sole source" means a contractor providing goods or services
30 of such a unique nature or sole availability at the location required
31 that the contractor is clearly and justifiably the only practicable
32 source to provide the goods or services.

33 (23) "Washington grown" has the definition in RCW 15.64.060.

34 (24) "Polychlorinated biphenyls" means any polychlorinated biphenyl
35 congeners and homologs.

36 (25) "Practical quantification limit" means the lowest
37 concentration that can be reliably measured within specified limits of

1 precision, — accuracy, — representativeness, — completeness, — and
2 comparability during routine laboratory operating conditions.

3 NEW SECTION. Sec. 3. A new section is added to chapter 39.26 RCW
4 to read as follows:

5 (1) The department shall establish purchasing and procurement
6 policies that provide a preference for products and products in
7 packaging that does not contain polychlorinated biphenyls.

8 (2) No agency may knowingly purchase products or products in
9 packaging containing polychlorinated biphenyls above the practical
10 quantification limit except when it is not cost-effective or
11 technically feasible to do so.

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

16 NEW SECTION. Sec. 4. A new section is added to chapter 39.26 RCW
17 to read as follows:

18 (1) This chapter does not require the department to test every
19 product procured. However, the department may accept from businesses,
20 manufacturers, organizations, and individuals results obtained from an
21 accredited laboratory or testing facility documenting product or
22 product packaging polychlorinated biphenyl levels.

23 (2) The department may request suppliers of products to provide
24 testing data from an accredited laboratory or testing facility
25 documenting product or product packaging polychlorinated biphenyl
26 levels.

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