

*repealed by 3476*ORDINANCE NO. 2708

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO CIVIL EMERGENCY DESIGNATING THE KIRKLAND FIRE DEPARTMENT AS THE HAZARDOUS MATERIALS INCIDENT COMMAND AGENCY FOR THE CITY OF KIRKLAND, AUTHORIZING SAID AGENCY TO ENTER INTO MUTUAL ASSISTANCE ARRANGEMENTS WITH RESPECT TO THE HANDLING OF HAZARDOUS MATERIALS INCIDENTS, ALL AS REQUIRED BY CHAPTER 172, WASHINGTON LAWS OF 1982 AND SUPPLEMENTING CHAPTER 3.20 OF THE KIRKLAND MUNICIPAL CODE.

Whereas, Chapter 172 of Washington Laws of 1982 requires the City of Kirkland to designate a hazardous materials incident command agency; and

Whereas, said agency, by virtue of Chapter 172, Laws of 1982 by such designation, become authorized and encouraged to enter into written hazardous materials emergency assistance agreements with persons whose knowledge or expertise is deemed potentially useful with respect to hazardous material incidents; now, therefore,

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. The Kirkland Fire Department is hereby designated, pursuant to the requirements of Chapter 172 Washington Session Laws 1982 as the hazardous materials incident command agency for the City of Kirkland. Said command agency is further authorized and directed to act as the hazardous materials incident command agency within the territorial limits of King County Fire District 41 at such time as the commissioners of said fire district so designate.

Section 2. The following sections of Chapter 172, Washington Laws of 1982 are incorporated by this reference into this ordinance as though fully set forth herein:

Section 1--Legislative Purpose

Section 2--Definitions

Section 5--Limitation on Liability

Section 6--Hazardous Materials, Emergency Assistance Agreements

Section 7--Verbal Hazardous Materials Emergency Assistance Agreements in case of an emergency

Section 3. The Kirkland Director of Fire Services as administrative head of the Kirkland Department of Fire Services is authorized to enter into agreements with persons, agencies, and/or corporations who may provide assistance with respect to hazardous materials incidents in accordance with the provisions and requirements of this ordinance, so long as said agreement, whether written or verbal is substantially similar to the hazardous materials incident--assistance agreement attached to the original of this ordinance as Exhibit A and by this reference incorporated herein.

Section 4. Sections 1 through 3 inclusive of this act, are added to Chapter 3.20 Kirkland Municipal Code.

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and posting or publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this first day of November, 1982.

Signed in authentication thereof this first day of November, 1982.


MAYOR

ATTEST:

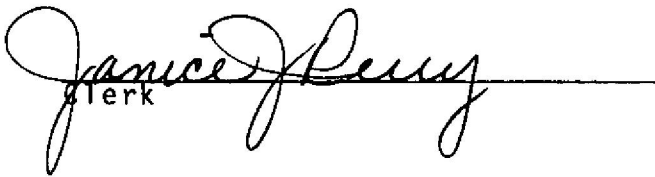

Director of Administration & Finance
(ex officio City Clerk)

APPROVED AS TO FORM:


City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 3 day of November, 1982 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.


Clerk

HAZARDOUS MATERIALS INCIDENT
ASSISTANCE AGREEMENT

Whereas, the City Council of the City of Kirkland has designated the Greater Kirkland Fire Department the Hazardous Materials Incident Command Agency for the City; and

Whereas, designated hazardous materials incident command agencies are authorized and encouraged, prior to a hazardous materials incident, to enter into written hazardous materials emergency assistance agreements with any person whose knowledge or expertise is deemed potentially useful; now, therefore, the Greater Kirkland Fire Department hereinafter referred to as "Fire Department", and _____ hereinafter referred to as "Advisor" agree:

1. The advisor is not obligated to assist where requested to do so by the fire department.

2. When assisting the fire department, the advisor shall act only under the direction of the incident commander who shall be the senior fire department officer present at the emergency location.

3. The advisor may withdraw assistance at any time the advisor deems the actions or directions of the incident commander to be contrary to accepted hazardous materials response practices. If the advisor decides to withdraw assistance he shall so notify the incident commander and state his reasons for withdrawing assistance.

4. The advisor shall not profit from rendering such assistance.

5. The advisor is not, and 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 provisions of Section 5, Chapter 172, Laws of 1982.

7. The advisor shall be notified of requests for assistance through the Greater Kirkland Fire Department alarm center. If the advisor feels it necessary to confirm the call as an authorized call from the Greater Kirkland Fire Department, he shall so confirm by calling _____.

8. The advisor has read Chapter 172, Laws of 1982 and Kirkland Ordinance _____ which relate to this agreement, and are attached hereto.

ADVISOR

(DIRECTOR OF FIRE SERVICES,
GREATER KIRKLAND DEPARTMENT OF
FIRE SERVICES)

of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

- (a) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;
 - (b) Statements made to the recipient that the substance may be used for inordinate profit; or
 - (c) Whether the substance is packaged in a manner normally used for illicit controlled substances.
- (4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance.

NEW SECTION. Sec. 4. (1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in RCW 69.50.101(1), in the course of professional practice or research.

(5) This chapter shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401(c).

(6) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

NEW SECTION. Sec. 5. Imitation controlled substances shall be subject to seizure, forfeiture, and disposition in the same manner as are controlled substances under RCW 69.50.505.

NEW SECTION. Sec. 6. The attorney general is authorized to bring for injunctive action against a manufacturer or distributor of imitation controlled substances in this state.

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

(e) 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