

HOUSE BILL REPORT

HB 1555

As Reported By House Committee On: Agriculture & Ecology

Title: An act relating to entry for the purposes of water pollution investigations on agricultural land.

Brief Description: Revising department of ecology entry authority for water quality complaints caused by agricultural activity.

Sponsors: Representatives McMorris, Foreman, Mastin, Chandler, Chappell, Koster, Boldt, Schoesler, Johnson, Honeyford, Clements, Regala, Basich, Hargrove, L. Thomas, Thompson, Delvin, Elliot, Goldsmith, McMahan, Mulliken, Fuhrman, Stevens and Lisk.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/6/95, 2/27/95 [DPS].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Johnson; Kremen; Poulsen; Regala; Robertson and Schoesler.

Minority Report: Without recommendation. Signed by 2 members: Representatives Honeyford and Rust.

Staff: Bill Lynch (786-7092).

Background: The Department of Ecology is authorized to enter public or private property at all reasonable times for the purpose of investigating conditions relating to the possible pollution of any waters of the state.

When the department determines that a person is violating or creating a substantial potential to violate the provisions of the water pollution control laws, or the oil and hazardous substance spill prevention laws, it must notify the person by registered mail. The person has 30 days to report to the department on the steps that are being

taken to control the waste or pollution. The department then issues an order or directive as it deems appropriate under the circumstances. The department may, however, issue an order or directive when immediate action is required to address pollution without first sending a notice of its determination of pollution.

Summary of Substitute Bill: Except in the case of an emergency, the Department of Ecology must provide at least seven days' notice to a person alleged to have engaged in pollution activities before entering upon private agricultural property. The notice must also be given to the owner of the property if it is someone different than the person against whom the complaint is made.

When a person receives a complaint that pollution has occurred on private agricultural land, the department must document the time the alleged pollution occurred, and the name and address of the person who made the complaint. Information revealing the identity of the person who made the complaint is exempt from public inspection and copying to the extent that it is protected under the state Public Disclosure Act. If the evidence was collected by an employee of the department, the name of the employee must be documented.

The department must observe the conditions of an agreement made with a person against whom a complaint is made to enter the property.

The Department of Ecology is not precluded from executing a valid search warrant for entering onto private property used for agricultural production.

The Department of Ecology may only send a notice that a violation of the water pollution laws or the oil and hazardous substance spill prevention laws is occurring or is substantially likely to occur on private agricultural property if it has cogent, site-specific scientific evidence. The department may not issue an order or directive for immediate action to address pollution on private agricultural property unless it has cogent, site-specific scientific evidence of pollution.

Substitute Bill Compared to Original Bill: The substitute removes the requirement for the Department of Ecology to obtain permission to enter agricultural land and replaces it with a seven day notice to the property owner unless there is an emergency. Technical amendments are also made.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Cattlemen often have to respond to anonymous complaints filed with the Department of Ecology. The department issues citations with no site-specific evidence of pollution.

Testimony Against: Rural wells need protection. Site-specific studies should not be required before making a determination of pollution.

Testified: Kent Lebsack, Washington Cattlemen (pro); Doug Grumbach (pro); Lois Lopez (con); and Linda Crerar, Department of Ecology (commented).