

SENATE BILL REPORT

ESSB 6289

As Passed Senate, February 12, 2010

Title: An act relating to protecting lake water quality by reducing phosphorus from lawn fertilizers.

Brief Description: Protecting lake water quality by reducing phosphorus from lawn fertilizers.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Pridemore, Brandland, Marr, Rockefeller, Brown, Kohl-Welles and Kline).

Brief History:

Committee Activity: Environment, Water & Energy: 1/19/10, 1/29/10 [DPS, DNP, w/oRec].

Passed Senate: 2/12/10, 36-11.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 6289 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Marr, Oemig and Ranker.

Minority Report: Do not pass.

Signed by Senators Delvin and Morton.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford, Ranking Minority Member.

Staff: Karen Epps (786-7424)

Background: The Water Pollution Control Act and the Surface Water Quality Standards require the Department of Ecology (Ecology) to establish criteria and programs necessary to protect lakes, rivers, and streams.

Phosphorus is a nutrient essential to both plant and animal life. Excess amounts of phosphorus in wastewater discharges can cause excessive aquatic plant growth in our streams and rivers. These plants can cause adverse water quality conditions by decreasing sunlight penetration, depleting dissolved oxygen during the night, and interfering with boating and other water uses.

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

Summary of Engrossed Substitute Bill: After January 1, 2012, a person may not apply a fertilizer containing phosphorus to turf. Exceptions include:

- applying a solid fertilizer containing less than 0.67 percent phosphate by weight or a liquid fertilizer applied at a rate not greater than 0.3 pounds of phosphate per 1,000 square feet of turf;
- when tests show the soil is phosphorus deficient when considering the level of phosphorus needed to support health turf and the agronomic application rate as determined by Washington State University; or
- new lawns during the first growing season.

This will not affect application of turf fertilizer for agricultural uses. Additionally, this does not apply to the application of turf fertilizer for golf courses. A person may not apply a fertilizer to an impervious surface. If fertilizer is released on an impervious surface, it must be immediately contained and either legally applied to turf or returned to the original or other appropriate container.

Ecology may issue a notice of corrective action if a person is in violation of these provisions. A city or county may adopt an ordinance providing for enforcement of these provisions, as a city or county adopting an ordinance has concurrent jurisdiction.

Ecology, in consultation with Washington State University Extension Services, fertilizer industry representatives, lakes health organizations, and other interested parties, may produce consumer information on application restrictions and on recommended best practices for turf fertilizer and other residential landscaping uses. This information will be distributed at retail points of sale of fertilizer that contains phosphorus and is used on turf.

Appropriation: None.

Fiscal Note: Available on original bill.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This bill has been modified from last year to make it workable and allow for local regulation and enforcement. Some entities have already implemented local ordinances. This bill provides for education on the issue and makes a statement in state law. Lakes are priceless resources that provide numerous benefits. There have increases in algae blooms in Washington's lakes. Lawn fertilizer runs off into the lakes, streams, and Puget Sound. Some studies show a 28 percent reduction of phosphorus in stormwater in states that have implemented restrictions. Some groups recognize the need to reduce phosphorus loading and provide phosphorus-free fertilizer to consumers. This bill will reduce phosphorus which will ensure environmental protections. There is currently a ban on phosphorus in dishwashing detergent in Spokane that will soon apply statewide. This provides an additional tool to reduce phosphorus in Spokane. This is a reasonable, common sense approach to solve a major problem. These types of regulations make a difference.

CON: The retailers have concerns about this bill and would prefer a national approach to this issue. This bill has some structural problems. Each lake is unique, so a broad brush approach like this is inappropriate. Some lakes have had issues with phosphorus and others are not experiencing issues. Phosphorus loading also comes from leaking septic systems and pet and wildlife waste. Rural areas may not carry phosphorus-free fertilizer. The Department of Agriculture currently regulates fertilizer, so it would make more sense to put enforcement with that agency.

OTHER: This issue is not a one size fits all situation. There are environmentally friendly products marketed as fertilizer that would not meet the definition of fertilizer in this bill.

Persons Testifying: PRO: Joe Daniels, Beth Cullen, Washington State Lake Protection Association; Bijay Adams, Liberty Lake Sewer & Water District and North American Lake Management Society; Melissa Gombosky, Inland Empire Paper Company; Rick Eichstaedt, Spokane Riverkeeper; Collins Sprague, Avista Corporation.

CON: Heather Hanson, Washington Friends of Farms & Forests and Washington Association of Landscape Professionals; Mark Johnson, Washington Retail Association.

OTHER: Jerry Smedes, Emerald Services.