

SENATE BILL REPORT

ESB 6273

AS PASSED SENATE, FEBRUARY 17, 1992

Brief Description: Clarifying the department of agriculture's authority.

SPONSORS: Senators Patterson, Snyder and Barr

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, and Newhouse.

Staff: John Stuhlmiller (786-7446)

Hearing Dates: January 28, 1992; February 4, 1992

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

BACKGROUND:

In 1991 the United States Supreme Court handed down its decision in Wisconsin v. Mortier. In this decision the court found that the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not preclude local governments from regulating pesticides. The court also determined that a state may preempt local authorities from regulating pesticides by showing a specific intent to fill the field of law regarding pesticide regulation.

Many pesticide users have expressed concern as to the ability of local governments to regulate pesticide use because the court failed to clearly outline the extent of the rights of local government in this area.

SUMMARY:

State authority to regulate pesticides within Washington is complete and no local governing body may adopt regulations regarding pesticide sale or use, with two limited exceptions. Local fire codes may be adopted and structural pest control operators, exterminators, and fumigators may be regulated by counties and cities when these entities are operating within their jurisdictions.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: The bill contains an emergency clause and takes effect immediately.

TESTIMONY FOR:

This bill takes the state back to before the court decision in Wisconsin v. Mortier. The measure affects all users and is very important, especially for those users who cross jurisdictions. Consistency in use regulations and the expertise of the state and federal government are necessary. The bill is needed to avoid a potentially chaotic situation.

TESTIMONY AGAINST:

Local, area-specific regulation is needed in order to protect aquifers. Several cities and counties now regulate some fumigators and this bill would prohibit this practice. Local entities need to have the right to regulate pesticides to meet their own needs.

TESTIFIED: Corey Chantry, Washington State Pest Control Association (pro); Mark Triplett, Washington Agribusiness Coalition/Washington Horticultural Association (pro); Tim Boyd, Washington Forest Protection Association (pro); Vicki Skeers, Washington State Department of Health; Mary Murphy, League of Women Voters (con); Bill Barber, AARD Pest Control (pro); Robert Berger, Washington State Department of Transportation (pro); Larry Treleven, Sprague Pest Control (pro); Bob Mack, Association of Washington Cities (con); Chris Backus, Association of Washington Businesses (pro); Tom Frick, Washington Association of Wheat Growers (pro)

HOUSE AMENDMENT(S):

Cities, towns, or counties may regulate pesticide use on agricultural lands, forest lands, or right of way/easement property for a state highway or public utility, only when: (1) implementing rules developed by the State Board of Health or the Department of Health to protect drinking water; or (2) complying with water quality standards established by the Department of Ecology.

Prior to proposing pesticide regulating ordinances, the local government must consult with the Departments of Agriculture, Ecology, and Health.

Any unit of local government may restrict pesticide use on property leased or owned by the local government.

The restrictions on pesticide regulation outlined in the amendment expire July 1, 1994.