

# HOUSE BILL REPORT

## HB 2834

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**As Passed House:**

February 6, 1996

**Title:** An act relating to nuisance weeds and algae.

**Brief Description:** Proposing a Washington state lake health plan.

**Sponsors:** Representatives Carrell, Chandler, Hatfield, Talcott, Smith, Campbell, Beeksma and Johnson.

**Brief History:**

**Committee Activity:**

Agriculture & Ecology: 1/29/96 [DP].

**Floor Activity:**

Passed House: 2/6/96, 97-0.

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** Do pass. Signed by 14 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Murray; Ogden; Robertson; Rust and Schoesler.

**Staff:** Rick Anderson (786-7114).

**Background:** The Department of Ecology regulates the use of aquatic pesticides based primarily on state and federal water quality laws and the State Environmental Protection Act. In addition, the department uses provisions found in state and federal pesticide laws to regulate aquatic pesticides. A local government may also regulate the use of an aquatic herbicide under the Shoreline Management Act.

Water Quality Laws:

The federal Clean Water Act and RCW 90.48 (the state's primary water quality law), generally prohibit the introduction of toxic chemicals, including aquatic herbicides, into waters of the state. Rules adopted by the Department of Ecology allow the introduction of such chemicals for a specific water body on a short-term basis when necessary to accommodate essential activities, respond to emergencies, or otherwise to protect the public interest. A short-term water quality modification permit must be issued by the department prior to using aquatic herbicide.

Pesticide Laws:

A pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act. Additionally, pesticides used in this state must be registered with the Department of Agriculture under the state's Pesticide Control Act, and their use is regulated by the department under the Control Act and the Pesticide Application Act. In general, these acts require that a registered pesticide (a) contain label requirements that identify any special restrictions; (b) is applied in conformance to its label requirements; and (c) is applied by a licensed applicator or operator. Certain pesticides may be sold only to licensed applicators.

State Environmental Policy Act:

The State Environmental Policy Act (SEPA) establishes a procedure to identify if a proposed action, requiring a permit, poses a potentially significant adverse impact to the environment. An environmental impact statement (EIS) is required for any proposal that is identified as having a potentially significant adverse impact. An EIS can be prepared for a specific proposal or for a general category of proposed activities. The latter type of EIS is known as a programmatic EIS. In 1992, the department updated its programmatic EIS on aquatic plant management.

Permit Decisions:

The department makes decisions on issuing short-term water quality modification permits based on whether or not the proposed use of an aquatic herbicide (a) meets all state and federal label requirements; (b) is applied by a licensed applicator or operator; (c) conforms to the department's programmatic EIS for aquatic plant management; and (d) provides benefits that will offset the potential adverse affects of applying the herbicide.

**Summary of Bill:** A shoreline owner is allowed to use an aquatic herbicide in a lake if the aquatic herbicide or algicide is used in conformance with its federal label requirements and is applied by a licensed applicator. The Department of Ecology is directed to develop a general, long-term plan to maintain lake health using existing agency personnel and resources. The department's plan must include means to fund the long-term plan.

A legislative committee is created to develop a Washington State lake health plan. The committee is to consist of the chair and ranking minority member of six specified House and Senate committees. The report is due by December 1, 1997.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 1996.

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

**Testimony For:** Weed growth in many lowland lakes in Washington has made these lakes dangerous. Responsible use of aquatic herbicides will improve lake and water quality. To improve the condition of lakes, the Department of Ecology needs to look at the big picture, not just one factor.

**Testimony Against:** Federal label requirements on aquatic herbicides are too general to provide meaningful protection to our lakes. Many label requirements do not list effects on salmon. Juvenile salmon migrating through a sprayed area could be very seriously affected.

**Testified:** Don Leaf, Thurston County Health (not in favor). The following testified 1/15/96 on HB 2306; Herb Dayton and Tom Lowry, Lake Steilacoom Improvement Club; John Posema, Snohomish County Farm Bureau; and Terry McNabb, Resource Management, Inc. (all in favor). Bruce Wishart, Sierra Club (not in favor). Cyreis Schmitt, Department of Fish and Wildlife; and Dick Wallace, Department of Ecology (commented on bill).