

FINAL BILL REPORT

SSB 5636

C 152 L 98

Synopsis as Enacted

Brief Description: Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Swecker, Rossi and Horn).

Senate Committee on Natural Resources & Parks

House Committee on Natural Resources

Background: Two recent Washington State Supreme Court decisions have made it impossible for local governments to obtain civil inspection warrants. As a result, agencies such as health departments have not been able to have inspections to guarantee health and safety protection provisions of existing law.

There has been a trend to decriminalize health and safety codes so that violations can be dealt with quickly and effectively without a criminal proceeding. The decision of the Washington State Supreme Court has eliminated the authority of local government to have a judge issue a warrant for search on a civil infraction. The court held that authority must be specifically delegated to the local government by the state Legislature and cannot be inferred from any other statutory authority.

Summary: A local health officer or county environmental health director or their designee may apply for an administrative search warrant to any court official who is authorized to issue a criminal search warrant. The court official must issue the warrant upon probable cause. Probable cause means that there is a demonstration that the inspection, examination, test or sampling is in response to pollution in commercial or recreational shellfish harvesting areas. A specific administrative plan must be developed in response to the pollution. The property owner must be notified of the warrant request and may be present when it is discussed.

The officer must submit the pollution plan to the court as part of the justification for the civil warrant. The plan must include the overall goal of the inspection, the address of the area included, the survey procedures used, the criteria used to define an on-site sewage system failure and what follow-up actions may be taken.

Votes on Final Passage:

Senate	45	3	
House	97	0	(House amended)
Senate	41	2	(Senate concurred)

Effective: June 11, 1998