

1 **ESSB 5424 - H AMD 0207 WITHDRAWN 04/16/99**

2 By Representative Talcott

3 Strike everything after the enacting clause and insert the
4 following:

5 NEW SECTION. **Sec. 1.** The legislature finds that the
6 environmental, recreational, and aesthetic values of many of the
7 state's lakes are threatened by the invasion of nuisance and noxious
8 aquatic weeds. Once established, these nuisance and noxious aquatic
9 weeds can colonize the shallow shorelines and other areas of lakes with
10 dense surface vegetation mats that degrade water quality, pose a threat
11 to swimmers, and restrict use of lakes. Algae can generate health and
12 safety conditions dangerous to fish, wildlife, and humans. The current
13 environmental impact statement is causing difficulty in responding to
14 environmentally damaging weed and algae problems. Many commercially
15 available herbicides have been demonstrated to be effective in
16 controlling nuisance and noxious aquatic weeds and algae and do not
17 pose a risk to the environment or public health. The purpose of this
18 act is to allow the use of commercially available herbicides that have
19 been approved by the environmental protection agency and the department
20 of agriculture and subject to rigorous evaluation by the department of
21 ecology through an environmental impact statement for the aquatic plant
22 management program.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48 RCW
24 to read as follows:

25 The department of ecology shall update the final supplemental
26 environmental impact statement completed in 1992 for the aquatic plant
27 management program to reflect new information on herbicides evaluated
28 in 1992 and new, commercially available herbicides. The department
29 shall maintain the currency of the information on herbicides and
30 evaluate new herbicides as they become commercially available. Until
31 the update to the 1992 supplemental environmental impact statement is
32 completed and fully reviewed as required by law, nonprofit corporations
33 acting pursuant to chapter 90.24 RCW that have participated in
34 centennial clean water fund phase one lake management studies, shall be
35 entitled to use commercially available herbicides that have been

1 approved by the United States environmental protection agency and the
2 department of agriculture to treat nuisance and noxious weeds and
3 algae. The herbicides which may be used under this section include
4 copper based algicides, diquat, and endothol based herbicides. The
5 herbicides under this section may be used without obtaining a permit
6 under RCW 90.48.445, and their use is limited to licensed applicators
7 applying the herbicides according to the label requirements. The use
8 of copper based algicides or other herbicides under this section is
9 prohibited if their use would result in levels of ionic copper in the
10 water column in excess of twelve parts per billion. Before applying
11 herbicides under this section, the nonprofit corporation shall: (a)
12 Provide at least twenty-one days' notice to the department of ecology,
13 the department of fish and wildlife, the department of agriculture, the
14 department of health, and all lake residents; and (b) post notices of
15 the intent to apply the herbicide at all public access points.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48 RCW
17 to read as follows:

18 (1) Subject to restrictions in this section, a government entity
19 seeking to control a limited infestation of Eurasian water milfoil may
20 use the pesticide 2,4-D to treat the milfoil infestation, without
21 obtaining a permit under RCW 90.48.445, if the milfoil infestation is
22 either recently documented or remaining after the application of other
23 control measures, and is limited to twenty percent or less of the
24 littoral zone of the lake. Any pesticide application of 2,4-D made
25 under this section must be made according to all label requirements for
26 the product and must meet the public notice requirements of subsection
27 (2) of this section.

28 (2) Before applying 2,4-D, the government entity shall: (a)
29 Provide at least twenty-one days' notice to the department of ecology,
30 the department of fish and wildlife, the department of agriculture, the
31 department of health, and all lake residents; (b) post notices of the
32 intent to apply 2,4-D at all public access points; and (c) place
33 informational buoys around the treatment area.

34 (3) The department of fish and wildlife may impose timing
35 restrictions on the use of 2,4-D to protect salmon and other fish and
36 wildlife.

1 (4) The department may prohibit the use of 2,4-D if the department
2 finds the product creates a toxicological concern because it contains
3 dioxin in excess of the standard allowed by the United States
4 environmental protection agency. Sampling protocols and analysis used
5 by the department under this section must be consistent with those used
6 by the United States environmental protection agency for testing this
7 product.

8 (5) Government entities using this section to apply 2,4-D may
9 apply for funds from the freshwater aquatic weeds account consistent
10 with the freshwater aquatic weeds management program as provided in RCW
11 43.21A.660.

12 (6) Government entities using this section to apply 2,4-D shall
13 consider development of long-term control strategies for eradication
14 and control of the Eurasian water milfoil.

15 (7) For the purpose of this section, "government entities"
16 includes cities, counties, state agencies, tribes, special purpose
17 districts, and county weed boards.

18 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 1999, in the omnibus appropriations act, this act
21 is null and void.

22 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.-

26 Correct the title accordingly.

EFFECT: Allows herbicides to be used for nuisance weeds. Allows certain non-profit corporations to apply commercially available herbicides approved by EPA and the Department of Agriculture until the update to the EIS is completed. Herbicides containing copper may not result in levels of ionic copper in the water column which exceed 12 parts per billion. Requires the level of dioxin in 2,4-D to exceed the amount allowed by EPA before its use is prohibited by the Department of Ecology