

# SENATE BILL REPORT

## SB 6542

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As Reported By Senate Committee On:  
Environmental Quality & Water Resources, February 3, 2000

**Title:** An act relating to citizen enforcement of health and environmental laws.

**Brief Description:** Providing for citizen enforcement of health and environmental laws.

**Sponsors:** Senators Kline, Costa, Heavey and Kohl-Welles.

**Brief History:**

**Committee Activity:** Environmental Quality & Water Resources: 2/1/2000, 2/3/2000  
[DPS, DNPS].

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### SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

**Majority Report:** That Substitute Senate Bill No. 6542 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen and McAuliffe.

**Minority Report:** Do not pass substitute.

Signed by Senators Honeyford, Morton and Swecker.

**Staff:** Richard Rodger (786-7461)

**Background:** Citizens are often limited in their authority to enforce the state's laws and regulations. It is suggested that a civil cause of action should be created to assist governmental agencies in protecting public health, natural resources and the environment.

**Summary of Substitute Bill:** Any individual, corporation, entity or governmental agency may commence a civil action against any person who is alleged to have violated an environmental or public health standard or requirement, or to enforce a governmental agency's order on such standard or requirement, if there is evidence of more than one day's violation or more than one instance of violation.

The action may not be filed unless the plaintiff gives 60 days notice of the alleged violation. The notice provision is waived if the violations present a substantial risk of immediate and irreparable danger to people or the environment.

No private action is authorized if a state agency has already commenced an action which includes as a remedy the cessation of the violation and damages substantially equivalent to the violator's benefit gained by the violation.

The court may: (1) enforce the standard, requirement or order; (2) grant injunctive relief; (3) assess civil penalties of up to \$10,000 per violation per day; and (4) award costs of litigation including attorneys' and expert witness' fees to the prevailing party.

The act is not intended to impose additional liability on state or local governments.

**Substitute Bill Compared to Original Bill:** The ability of a citizen to file an action if an agency is pursuing enforcement is narrowed by providing that: (1) the agency's penalty is substantially— equivalent to the violator's economic benefit gained from the violation, instead of greater than— the violator's benefit; and (2) the agency's enforcement action no longer requires a public component.

The legislative intent is that the act is not intended to impose additional liability on local government and is extended to include state government.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2000.

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

**Testimony For:** This is really a privatization bill for the enforcement of environmental laws. The bill will allow citizens to enforce the environmental laws that the state agencies do not have sufficient resources to enforce. It will assist private citizens to protect their property rights when those rights are violated by persons acting outside of the law or in excess of their legal permits. It is drafted to avoid excessive litigation and save the state enforcement resources.

**Testimony Against:** The bill is an inappropriate delegation of the state's legal duty of enforcement of the laws. The bill will eliminate the state agencies' discretion to work with people who hold valid permits. The new civil penalties are excessive.

**Testified:** PRO: Senator Adam Kline, prime sponsor; Dianne Gill, citizen; Richard Smith, Washington Environmental Council; CON: Scott Hazelgrove, Association of Washington Businesses; Bill Clarke, Realtors Association.