

SENATE BILL REPORT

ESB 6726

As Passed Senate, February 18, 2002

Title: An act relating to complaints against dairy farms.

Brief Description: Protecting dairy farmers from unwarranted complaints.

Sponsors: Senators Rasmussen and Honeyford.

Brief History:

Committee Activity: Agriculture & International Trade: 2/6/02, 2/8/02 [DP].

Passed Senate: 2/18/02, 48-0.

SENATE COMMITTEE ON AGRICULTURE & INTERNATIONAL TRADE

Majority Report: Do pass.

Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Parlette and Swecker.

Staff: Bob Lee (786-7404)

Background: In 1993, it became mandatory for the Department of Ecology to investigate complaints filed against dairy farms for alleged violations of water quality laws. Written complaints are to be investigated within three working days and a written report of the department's finding is to be issued.

In 1998, the state enacted the Dairy Nutrient Management Act that provides for the inspection of dairy farms. In addition, dairy farms must develop dairy nutrient management plans. These plans must be approved by the local conservation district by July 1, 2002 unless federal and state funding to support technical assistance is insufficient. A plan must be certified being fully implemented by December 31, 2003.

Oregon has had a system to reduce the number of unwarranted complaints against dairy farms. If a complaint was filed and no violation was found, any additional complaint filed by the same person in the same calendar year shall be accompanied by a security deposit of \$100. If the investigation determines that a violation has occurred, the \$100 is returned. If the investigation determines that no violation has occurred, the \$100 security deposit is forfeited.

Summary of Bill: The Department of Ecology may consider past complaints against the same dairy farm from the same person and the results of its previous inspections and has discretion to decide whether to conduct an inspection if a similar complaint was filed during the preceding six months and there was no violation found. If the decision is to not conduct an inspection, the department must document its decision and notify the complainant and the dairy producer. Findings of inspections are to be retained in the department's administrative records.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: A new state of the art dairy was built eight months ago. A number of complaints have since been filed. The Department of Ecology has conducted a number of inspections and there have been no violations. Legal costs to the dairy farm have been very substantial but complaints bear no cost. Repeated unfounded complaints can lead to harassment and needs to be slowed down. If the complaint is found to be valid, the \$100 is refunded.

Testimony Against: Concern was expressed that the bill may result in a chilling effect to legitimate complaints. While it is recognized that there have been multiple complaints against a small number of dairies, requiring a \$100 security deposit seems to be somewhat heavy handed. Requiring a security deposit will add more stress on inspectors. Multiple repeated complaints have happened only to a couple dairy farms. One unanticipated result may be that future complaints are lodged with EPA rather than Department of Ecology.

Testified: Dave Peeler, Department of Ecology (con); Craig Engelking, Sierra Club (concerns); Chris Cheney, WA Dairy Federation (pro); Tom Devries (pro).