

HOUSE BILL REPORT

SSB 6107

As Passed House - Amended:

March 2, 2004

Title: An act relating to diseased and quarantined animals.

Brief Description: Preventing the spread of animal diseases.

Sponsors: By Senate Committee on Agriculture (originally sponsored by Senators Rasmussen, Swecker, Eide, Esser, McAuliffe and Shin; by request of Department of Agriculture).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/20/04, 2/25/04 [DPA].

Floor Activity:

Passed House - Amended: 3/2/04, 93-1.

Brief Summary of Substitute Bill (As Amended by House)

- Broadens the authority of the Director of Agriculture (Director) to quarantine an animal or its reproductive products for disease control and to conduct related tests, examinations, or inspections.
- Authorizes the Director to apply to a court for a search warrant for access to conduct disease control tests, examinations, and inspections and to seize or destroy property.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 12 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Minority Report: Do not pass. Signed by 1 member: Representative Holmquist, Assistant Ranking Minority Member.

Staff: Kenneth Hirst (786-7105).

Background:

In 1998 legislation was enacted that substantially updated the state's animal health laws and granted the Director of Agriculture (Director) more uniform authority to control diseases in animals. Among other provisions, the 1998 legislation: expressly gives the Director the authority to issue "hold orders" for up to seven days for disease control and other purposes; grants the Director the authority to establish quarantines for the reproductive products (sperm, ova, and embryos) of animals; requires permits for importing animals with or exposed to reportable diseases; requires a person with livestock infected with or exposed to a transmissible spongiform brain disease to report it immediately; and broadens the types of animals held in quarantine that the Director may order destroyed for failure to abide by a written agreement with the State Veterinarian.

Summary of Amended Bill:

The Director may quarantine an animal or its reproductive products if there is reasonable cause to investigate whether they are affected with or have been exposed to disease. Overt disease or exposure to disease need not be immediately obvious.

The authority of the Director to enter premises to test or examine an animal when there is reasonable evidence of infection or exposure of an animal on the premises to a reportable disease is broadened. The Director has the authority to enter to conduct tests, examinations or inspections, not just of the animal, but for disease conditions. The Director may do so if there is reasonable cause to investigate whether animals on or that have been on the premises have been so infected or exposed. If the Director determines there is probable cause that there is a serious risk from disease or contamination, the Director may seize items that are necessary to conduct the tests, inspections, or examinations.

If the Director is denied access to the animal premises or the animals to conduct these tests, inspections, or examinations or if the animal owner fails to comply with an order of the Director, the Director may apply to a court of competent jurisdiction for a search warrant. The warrant may authorize access for conducting the tests, inspections, or examinations of an animal or the animal premises, or taking samples. It may also authorize the seizure or destruction of property.

The warrant is to be issued upon probable cause. It is sufficient probable cause to show a potential threat to the agricultural interests of this state or a potential threat which seriously endangers animals, human health, the environment, or public welfare. To show that access is denied, the Director must file with the court an affidavit or declaration containing a description of all attempts to notify and locate the owner or the owner's agent and to secure consent.

The authority of the Director to order the destruction of an animal held under quarantine if the owner fails to follow a herd or flock plan or to order, when the public welfare demands it, the destruction of an animal affected or exposed to disease is clarified. The destruction of an animal held in quarantine may also be ordered destroyed when the public welfare demands it.

Appropriation: None.

Fiscal Note: Available on companion bill HB 2298.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (1) The bill expands the quarantine authority of the WSDA and allows it to apply for a search warrant. (2) With some diseases, the response must be within hours, not days. England's ability to respond within 24 hours to a recent outbreak was critical to its ability to control the disease. The disease was still devastating to herds and resulted in some suicides among farmers.

Testimony Against: (1) The bill allows the WSDA to take actions to protect the "public welfare." That is much too broad a cause for action and will prompt lawsuits for unreasonable search and seizure. (2) The authority of the bill should be limited to responding to health issues.

Persons Testifying: (In support) Senator Rasmussen, prime sponsor; Leslie Emerick, Washington State Department of Agriculture; Jay Gordon, Washington State Dairy Federation; and Heather Hansen, Washington Cattle Feeders Association.

(Opposed) Sid Viebrock, Washington Cattlemen's Association; and Hertha Lund, Washington State Farm Bureau.

Persons Signed In To Testify But Not Testifying: None.