

SSB 5602 - H AMD 626

By Representative Pettigrew

ADOPTED 04/23/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.64 RCW
4 to read as follows:

5 (1) The legislature finds that a livestock nutrient management
6 program is essential to protecting the quality of the waters of the
7 state and ensuring a healthy and productive livestock industry.

8 (2) The departments of agriculture and ecology shall examine their
9 current statutory authorities and provide the legislature with
10 recommendations for statutory changes to fully implement a livestock
11 nutrient management program within the department of agriculture for
12 concentrated animal feeding operations, animal feeding operations, and
13 dairies, as authorized in RCW 90.48.260, 90.64.813, and 90.64.901. In
14 developing recommended statutory changes, the departments shall consult
15 with the livestock nutrient management program development and
16 oversight committee created in RCW 90.64.813. The recommendations must
17 be submitted to the legislature by the departments of agriculture and
18 ecology prior to applying to the environmental protection agency for
19 delegated authority to administer the CAFO portion of the national
20 pollutant discharge elimination system permit program under the federal
21 clean water act.

22 (3) For purposes of this act, animal feeding operations (AFOs) and
23 concentrated animal feeding operations (CAFOs) have the same meaning as
24 defined in 40 C.F.R. 122.23.

25 (4) This section applies to all operations that meet the definition
26 of an AFO. This section does not apply to true pasture and rangeland
27 operations that do not meet the definition of AFO, however, such
28 operations may have confinement areas that may qualify as an AFO.

1 **Sec. 2.** RCW 90.64.813 and 2003 c 325 s 2 are each amended to read
2 as follows:

3 (1) A livestock nutrient management program development and
4 oversight committee is created comprised of the following members(~~(, appointed as follows)~~):
5

6 (a) The director of the department of agriculture, or the
7 director's designee, who shall serve as committee chair;

8 (b) The director of the department of ecology, or the director's
9 designee;

10 (c) A representative of the United States environmental protection
11 agency, appointed by the regional director of the agency unless the
12 agency chooses not to be represented on the committee;

13 (d) One member from each of the two major caucuses of the house of
14 representatives, appointed by the speaker of the house of
15 representatives, and one member from each of the two major caucuses of
16 the senate, appointed by the president of the senate;

17 ~~(e)~~ (e) A representative of commercial shellfish growers, nominated by
18 an organization representing these growers, appointed by the
19 ~~(governor)~~ director;

20 ~~(e)~~ (f) A representative of an environmental interest
21 organization with familiarity and expertise in water quality issues as
22 nominated by a statewide environmental organization, appointed by the
23 ~~(governor)~~ director;

24 ~~(f)~~ (g) A representative of tribal governments as nominated by
25 an organization representing tribal governments(~~(, appointed by the~~
26 ~~governor)~~);

27 ~~(g)~~ (h) A representative of Washington State University
28 appointed by the dean of the college of agriculture and home economics;

29 ~~(h)~~ (i) A representative of the Washington association of
30 conservation districts, appointed by the association's board of
31 officers;

32 ~~(i)~~ (j) Three representatives of dairy producers nominated by
33 a statewide organization representing dairy producers in the state,
34 appointed by the ~~(governor)~~ director;

35 ~~(j)~~ (k) Two representatives of beef cattle producers nominated
36 by a statewide organization representing beef cattle producers in the
37 state, appointed by the ~~(governor)~~ director;

1 (~~(k)~~) (l) One representative of poultry producers nominated by a
2 statewide organization representing poultry producers in the state,
3 appointed by the (~~(governor)~~) director;

4 (~~(l)~~) (m) One representative of the commercial cattle feedlots
5 nominated by a statewide organization representing commercial cattle
6 feedlots in the state, appointed by the (~~(governor)~~) director; (~~and~~)

7 (~~(m)~~) (n) A representative of any other segment of the livestock
8 industry determined by the director of agriculture to be subject to
9 federal rules regulating animal feeding or concentrated animal feeding
10 operations;

11 (o) One representative of horse owners nominated by a statewide
12 organization representing horse owners in the state, appointed by the
13 director; and

14 (p) One representative of sheep producers nominated by a statewide
15 organization representing sheep producers in the state, appointed by
16 the director.

17 (2) The state department of agriculture shall provide staff for the
18 committee. The department of agriculture may request staff assistance
19 be assigned by the United States environmental protection agency to
20 assist the director in staffing the committee.

21 (3) The committee shall establish a work plan that includes a list
22 of tasks and a projected completion date for each task.

23 (4) The committee may establish a subcommittee for each of the
24 major industry segments that is covered by the recently adopted federal
25 regulations that pertain to animal feeding operations and concentrated
26 animal feeding operations. The subcommittee shall be composed of
27 selected members of the full committee and additional representatives
28 from that major segment of the livestock industry as determined by the
29 director. The committee shall assign tasks to the subcommittees and
30 shall establish dates for each subcommittee to report back to the full
31 committee.

32 (5) The committee shall examine the recently adopted federal
33 regulations that provide for the regulation of animal feeding
34 operations and concentrated animal feeding operations and develop a
35 program to be administered by the department of agriculture that meets
36 the requirements and time frames contained in the federal rules.
37 Elements that the committee shall evaluate include:

1 (a) A process for adopting standards and for developing plans for
2 each operation that meet these standards;

3 (b) A process for revising current national pollution discharge
4 elimination system permits currently held by livestock operations and
5 to transition these permits into the new system; and

6 (c) In consultation with the director, a determination of what
7 other work is needed and what other institutional relationships are
8 needed or desirable. The committee shall consult with representatives
9 of the statewide association of conservation districts regarding any
10 functions or activities that are proposed to be provided through local
11 conservation districts.

12 (6) The committee shall review and comment on proposals for grants
13 from the livestock nutrient management account created in RCW
14 90.64.150.

15 (7) The committee shall develop draft proposed legislation that
16 includes:

17 (a) Statutory changes, including a timeline to achieve the phased-
18 in levels of regulation under federal law, to comply with the minimum
19 requirements under federal law and the minimum requirements under
20 chapter 90.48 RCW. These changes must meet the requirements necessary
21 to enable the department of agriculture and the department of ecology
22 to pursue the United States environmental protection agency's approval
23 of the transfer of the permitting program as it relates to the
24 concentrated animal feeding operations from the department of ecology
25 to the department of agriculture;

26 (b) Statutory changes necessitated by the transfer of functions
27 under chapter 90.64 RCW from the department of ecology to the
28 department of agriculture;

29 (c) Continued inspection of dairy operations at least once every
30 two years;

31 (d) An outreach and education program to inform the various animal
32 feeding operations and concentrated animal feeding operations of the
33 program's elements; and

34 (e) Annual reporting to the legislature on the progress of the
35 state strategy for implementing the animal feeding operation and
36 concentrated animal feeding operation.

37 (8) The committee shall provide a report by December 1, 2003, to

1 appropriate committees of the legislature that includes the results of
2 the committee's evaluation under subsection (5) of this section and
3 draft legislation to initiate the program.

4 (9) The committee shall evaluate simplified nutrient management
5 planning tools and systematic practices that can be offered to those
6 livestock operations not required to have permits or farm plans. The
7 planning tools and systematic practices may include coordinated
8 resource management and shall differentiate between types of
9 operations, between stock restricted and open range areas, and between
10 regional differences in average annual precipitation. The goal shall
11 be to introduce these practical models through technical assistance,
12 education, and outreach so that all livestock owners will have clear
13 guidance on how to meet basic responsibilities to protect water
14 quality. The committee shall report its recommendations on tools and
15 service delivery options to appropriate committees of the legislature
16 during the September 2005 assembly.

17 (10) With respect to the federal requirement that livestock
18 nutrient management plans contain a component ensuring proper
19 management of dead animals, the committee shall review issues
20 concerning routine animal carcass disposal in Washington, including
21 composting, rendering, burying, landfills, and incineration. The
22 committee may appoint a subcommittee including appropriate technical
23 staff from state agencies to undertake this task and make
24 recommendations back to the full committee. At the legislative
25 assembly in September 2005, the department of agriculture, the
26 department of ecology, the state board of health, and committee
27 representatives shall present reports as follows to the appropriate
28 legislative committees:

29 (a) The department of ecology shall report on the status of off-
30 site animal composting options that meet the livestock industry's need
31 for disposal alternatives while assuring consumer protection and equity
32 with other composters;

33 (b) The department of agriculture shall report on the status of a
34 comprehensive, clearly written guidance document for the livestock
35 industry on alternatives currently available for routine disposal of
36 animal carcasses. The guidance document shall include, at a minimum,
37 the disposal alternatives of rendering, burying, landfills, and
38 composting; and

1 (c) The state board of health shall report on the status of rule
2 making that clarifies burial depth, location of burial sites in
3 relation to drinking water wells, and incineration.

4 (11) This section expires ((June 30, 2006)) when the federal
5 environmental protection agency delegates authority for the NPDES CAFO
6 program to the department of agriculture. The department of
7 agriculture shall provide notice to the legislature of the date of any
8 such delegation of authority.

9 NEW SECTION. Sec. 3. (1) The department of ecology shall develop
10 and maintain a standard protocol for water quality monitoring of the
11 waters of the state within the vicinity of dairies and CAFOs. The
12 protocol shall include sampling methods and procedures and identify the
13 water quality constituents to be monitored.

14 (2) The department of ecology shall submit the initial protocol
15 developed according to this section to the appropriate committees of
16 the legislature by December 1, 2005.

17 NEW SECTION. Sec. 4. A new section is added to chapter 90.64 RCW
18 to read as follows:

19 This section applies to dairies, AFOs, and CAFOs, not required to
20 apply for a permit. Information in plans, records, and reports
21 obtained by state and local agencies from livestock producers under
22 this act regarding (1) number of animals; (2) volume of livestock
23 nutrients generated; (3) number of acres covered by the plan or used
24 for land application of livestock nutrients; (4) livestock nutrients
25 transferred to other persons; and (5) crop yields shall be disclosable
26 in response to a request for public records under chapter 42.17 RCW
27 only in ranges that provide meaningful information to the public while
28 ensuring confidentiality of business information. The department of
29 agriculture shall adopt rules to implement this section in consultation
30 with affected state and local agencies.

31 NEW SECTION. Sec. 5. A new section is added to chapter 42.17 RCW
32 to read as follows:

33 The following information in plans, records, and reports obtained
34 by state and local agencies from dairies, animal feeding operations,
35 and concentrated animal feeding operations, not required to apply for

1 a national pollutant discharge elimination system permit is disclosable
2 only in ranges that provide meaningful information to the public while
3 ensuring confidentiality of business information regarding: (1) Number
4 of animals; (2) volume of livestock nutrients generated; (3) number of
5 acres covered by the plan or used for land application of livestock
6 nutrients; (4) livestock nutrients transferred to other persons; and
7 (5) crop yields. The department of agriculture shall adopt rules to
8 implement this section in consultation with affected state and local
9 agencies.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95 RCW,
11 to be codified after RCW 70.95.305, to read as follows:

12 (1) By July 1, 2005, the department of ecology and the department
13 of agriculture, in consultation with the department of health, shall
14 make available to livestock producers clearly written guidelines for
15 the composting of bovine and equine carcasses for routine animal
16 disposal.

17 (2) Composters of bovine and equine carcasses are exempt from the
18 metals testing and permit requirements under the solid waste handling
19 rules for compost that is distributed off-site if the following
20 conditions are met:

21 (a) The carcasses to be composted are not known or suspected to be
22 affected with a prion-protein disease such as bovine spongiform
23 encephalopathy, a spore-forming disease such as anthrax or other
24 diseases designated by the state veterinarian;

25 (b) The composter follows the written guidelines provided for in
26 subsection (1) of this section;

27 (c) The composter does not accept for composting animal mortalities
28 from other sources not directly affiliated with the composter's
29 operation;

30 (d) The composter provides information to the end-user that
31 includes the source of the material; the quality of the compost as to
32 its nutrient content, pathogens, and stability; and the restrictions on
33 use of the compost as stated in (f) of this subsection;

34 (e) The composter reports annually to the department the number of
35 bovines and equines and the amounts of other material composted,
36 including the composter's best estimate of the tonnage or yardage
37 involved; and

1 (f) The end-user applies the compost only to agricultural lands
2 that are not used for the production of root crops except as prescribed
3 in the guidelines and ensures no compost comes into contact with the
4 crops harvested from the lands where the compost is applied.

5 (3) If a compost production facility does not operate in compliance
6 with the terms and conditions established for an exemption in this
7 section, the facility shall be subject to the permitting requirements
8 for solid waste handling under this chapter.

9 **Sec. 7.** RCW 70.95.315 and 1998 c 156 s 7 are each amended to read
10 as follows:

11 The department may assess a civil penalty in an amount not to
12 exceed one thousand dollars per day per violation to any person exempt
13 from solid waste permitting in accordance with RCW 70.95.300 ((~~or~~)),
14 70.95.305, or section 6 of this act who fails to comply with the terms
15 and conditions of the exemption. Each such violation shall be a
16 separate and distinct offense, and in the case of a continuing
17 violation, each day's continuance shall be a separate and distinct
18 violation."

19 Correct the title.

EFFECT: Finds a Livestock Nutrient Management Program essential to state water quality and a healthy livestock industry. Requires WSDA and DOE to examine current statutory authorities and, in consultation with the development oversight committee, recommend to the legislature statutory changes for full program implementation. Requires that recommendations be submitted by WSDA and DOE to the legislature prior to applying for EPA delegation of authority. Clarifies that the section does not apply to true pasture and rangeland operations that do not meet the definition of AFO, however, such operations may have confinement areas that may qualify as an AFO. Changes membership, appointments, expiration of the Development and Oversight Committee and adds two tasks. Requires the department of ecology to develop and maintain a standard protocol for water quality monitoring. Makes certain information in plans, records, and reports obtained from CAFOs, dairies, and AFOs, not required to apply for a permit disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information. Exempts composters of bovine and equine carcasses from metals testing and permit requirements for compost distributed off-site if certain conditions are met. Provides for penalties in event of noncompliance with exemption

conditions.

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