
HOUSE BILL 1982

State of Washington 59th Legislature 2005 Regular Session

By Representatives Green, Buck, Talcott, Miloscia, Orcutt, Lantz, Kretz and Kilmer

Read first time 02/14/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to improving lake water quality by establishing a
2 program to control and prevent harmful algae blooms; amending RCW
3 90.48.447 and 70.146.030; adding a new section to chapter 90.48 RCW;
4 creating a new section; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that harmful algal
7 blooms can create serious environmental consequences for this state.
8 The legislature recognizes harmful algal blooms occur in fresh water,
9 marine water, and estuarine environments when certain algae grow
10 rapidly. The legislature finds harmful algal blooms can threaten
11 aquatic habitat and other aquatic organisms by depleting oxygen,
12 blocking sunlight, and degrading water quality.

13 (2) The legislature finds harmful algal blooms pose significant
14 health risks for animals and humans in this state. The legislature
15 recognizes that the algae in harmful algal blooms may release toxins
16 impacting both animal and human health. The legislature finds various
17 neurological, gastrointestinal, and other health problems may arise in
18 animals and humans from exposure to water with harmful algal blooms.

1 The legislature also finds that significant, potentially life-
2 threatening health problems are associated with eating shellfish or
3 seafood contaminated with toxins from harmful algal blooms.

4 (3) The legislature recognizes that the federal centers for disease
5 control and prevention investigate the health effects of harmful algal
6 blooms and identify possible health effects of several types of harmful
7 algal blooms. Specifically, the legislature recognizes the federal
8 centers for disease control and prevention warn that:

9 (a) Persons drinking or swimming in water with high concentrations
10 of cyanobacteria, also known as blue-green algae, or its toxins may
11 experience gastroenteritis, skin irritation, allergic responses, or
12 liver damage;

13 (b) Persons eating shellfish with toxins from harmful marine algae,
14 associated with red tides, may experience neurological symptoms, and
15 susceptible persons who inhale these toxins may experience asthma
16 attacks; and

17 (c) Fish and marine mammals may be harmed or killed from exposure
18 to harmful marine algae.

19 (4) The legislature finds that animals and humans are vulnerable to
20 dangers associated with harmful algal blooms in this state. The
21 legislature recognizes that harmful algal blooms have occurred in
22 recent years in Washington's marine and fresh water environments. The
23 legislature recognizes that a harmful algal bloom of pseudonitzschia in
24 September 2004 was located fifteen miles off the northwest coast of
25 Washington and stretched across thirty miles. The legislature also
26 recognizes that Steilacoom Lake's repeated harmful algal blooms of
27 cyanobacteria in the last decade led to the local health department's
28 posting of public health warnings and are linked to the deaths of at
29 least two family pets.

30 (5) The legislature finds that immediate action is necessary to
31 address the significant public health threat associated with harmful
32 algal blooms in the state's lakes. The legislature finds that the
33 state's current approach to treating harmful algal blooms in lakes has
34 not proven effective to mitigate the dramatic risks to humans and
35 animals living near or recreating on the state's lakes. The
36 legislature therefore finds that the state must immediately pursue an
37 aggressive program to prevent or control harmful algal blooms in lakes.
38 The legislature further finds this program must address the causes of

1 harmful algal blooms in lakes and identify effective treatments and
2 actions to combat the deleterious effects of harmful algal blooms in
3 lakes.

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

6 (1) The department is the lead agency for the prevention and
7 control of harmful algal blooms in lakes. The department's
8 responsibilities as the lead agency include, but are not limited to:

9 (a) Coordination of the prevention and control program, including
10 memorandums of understanding, contracts, and agreements with local,
11 state, federal, and tribal governmental entities and private parties;

12 (b) Preparation of a statewide harmful algae management plan for
13 the state's lakes developed in cooperation with local, state, federal,
14 and tribal governments, private landowners, and concerned citizens.
15 The plan shall prioritize areas for control. Nothing in this
16 subsection prohibits the department from taking action to prevent or
17 control harmful algal blooms in a particular area of the state in
18 accordance with a plan previously prepared by the state while preparing
19 the statewide plan; and

20 (c) Directing on-the-ground control efforts that include, but are
21 not limited to: Control work and contracts; harmful algae surveys;
22 collection and maintenance of harmful algae location data; purchasing
23 equipment, goods, and services; survey of threatened and endangered
24 species; site-specific environmental information and documents; and
25 evaluation of the effectiveness of control efforts.

26 (2) The department shall issue or approve water quality permits for
27 use by federal, state, or local government agencies, licensed
28 applicators, and private parties for the prevention and control of
29 harmful algal blooms. The department shall develop and implement an
30 expedited general permit process for treatments to prevent and control
31 harmful algal blooms in lakes. The department may not utilize the
32 permit authority in this subsection to otherwise condition or burden
33 efforts to prevent or control harmful algal blooms.

34 (3) The department shall submit a report on the harmful algal bloom
35 prevention and control program to the appropriate standing committees
36 of the house of representatives and the senate no later than December
37 15th of each year through 2010. The annual report must describe the:

- 1 (a) Progress of the program;
- 2 (b) Lakes and number of acres treated by various methods of
3 control;
- 4 (c) Funds spent; and
- 5 (d) Recommendations, if any, for legislative or regulatory changes
6 to facilitate harmful algal bloom prevention and control in lakes.
- 7 (4) The department may grant funds to other state agencies, local
8 governments, and nonprofit corporations for the prevention or control
9 of harmful algal blooms in lakes and may use those moneys itself. The
10 department may match private funds for prevention or control programs
11 on private property on a fifty-fifty matching basis. The accounting
12 and supervision of the funds at the local level must be conducted by
13 the department.

14 **Sec. 3.** RCW 90.48.447 and 1999 c 255 s 2 are each amended to read
15 as follows:

16 (1) The department of ecology shall update the final supplemental
17 environmental impact statement completed in 1992 for the aquatic plant
18 management program to reflect new information on herbicides evaluated
19 in 1992 and new, commercially available herbicides. The department
20 shall maintain the currency of the information on herbicides and
21 evaluate new herbicides as they become commercially available.

22 (2) For the ~~((1999))~~ 2005 treatment season, the department shall
23 ~~((permit))~~ prepare a risk assessment to be completed by May 15,
24 ~~((1999))~~ 2005, ~~((municipal))~~ for experimental ~~((application))~~
25 treatments of ~~((herbicides such as hydrothol 191 for))~~ calcium
26 hydroxide and carbon dioxide to form calcium carbonate as a mechanism
27 to address phosphorus concentrations and algae control in lakes
28 ~~((managed under chapter 90.24 RCW. If experimental use is determined~~
29 ~~to be ineffective, then the department shall within fourteen days~~
30 ~~consult with other state, federal, and local agencies and interested~~
31 ~~parties, and may permit the use of copper sulfate. The Washington~~
32 ~~institute for public policy shall contract for a study on the lake wide~~
33 ~~effectiveness of any herbicide used under this subsection. Prior to~~
34 ~~issuing the contract for the study, the institute for public policy~~
35 ~~shall determine the parameters of the study in consultation with~~
36 ~~licensed applicators who have recent experience treating the lake and~~
37 ~~with the nonprofit corporation that participated in centennial clean~~

1 ~~water fund phase one lake management studies for the lake. The~~
2 ~~parameters must include measurement of the lake wide effectiveness of~~
3 ~~the application of the herbicide in maintaining beneficial uses of the~~
4 ~~lake, including any uses designated under state or federal water~~
5 ~~quality standards. The effectiveness of the application shall be~~
6 ~~determined by objective criteria such as turbidity of the water, the~~
7 ~~effectiveness in killing algae, any harm to fish or wildlife, any risk~~
8 ~~to human health, or other criteria developed by the institute. The~~
9 ~~results of the study shall be reported to the appropriate legislative~~
10 ~~committees by December 1, 1999. A general fund appropriation in the~~
11 ~~amount of \$35,000 is provided to the Washington institute for public~~
12 ~~policy for fiscal year 1999 for the study required under this~~
13 ~~subsection)) in which harmful algal blooms have occurred within the~~
14 ~~past three years. The department shall also prepare risk assessments~~
15 ~~for other experimental treatments proposed to address phosphorus~~
16 ~~concentrations and algae control in lakes in which harmful algal blooms~~
17 ~~have occurred within the past three years.~~

18 **Sec. 4.** RCW 70.146.030 and 2004 c 277 s 909 are each amended to
19 read as follows:

20 (1) The water quality account is hereby created in the state
21 treasury. Moneys in the account may be used only in a manner
22 consistent with this chapter. Moneys deposited in the account shall be
23 administered by the department of ecology and shall be subject to
24 legislative appropriation. Moneys placed in the account shall include
25 tax receipts as provided in RCW 82.24.027, 82.26.025, and 82.32.390,
26 principal and interest from the repayment of any loans granted pursuant
27 to this chapter, and any other moneys appropriated to the account by
28 the legislature.

29 (2) The department may use or permit the use of any moneys in the
30 account to make grants or loans to public bodies, including grants to
31 public bodies as cost-sharing moneys in any case where federal, local,
32 or other funds are made available on a cost-sharing basis, for water
33 pollution control facilities and activities, or for purposes of
34 assisting a public body to obtain an ownership interest in water
35 pollution control facilities and/or to defray a part of the payments
36 made by a public body to a service provider under a service agreement
37 entered into pursuant to RCW 70.150.060, within the purposes of this

1 chapter and for related administrative expenses. For the period July
2 1, 2003, to June 30, 2005, moneys in the account may be used to process
3 applications received by the department that seek to make changes to or
4 transfer existing water rights, for water conveyance projects, and for
5 grants and technical assistance to public bodies for watershed planning
6 under chapter 90.82 RCW. No more than three percent of the moneys
7 deposited in the account may be used by the department to pay for the
8 administration of the grant and loan program authorized by this
9 chapter.

10 (3) Ten percent of the moneys deposited into the water quality
11 account must be allocated for program activities that control and
12 prevent harmful algal blooms in lakes and to award grants to state
13 agencies, local governments, nonprofit corporations, firms, or any
14 other entity for the control and prevention of harmful algal blooms in
15 lakes. Grant funds may match private funds on an equal basis.

16 (4) Beginning with the biennium ending June 30, 1997, the
17 department shall present a biennial progress report on the use of
18 moneys from the account to the chairs of the senate committee on ways
19 and means and the house of representatives committee on appropriations.
20 The first report is due June 30, 1996, and the report for each
21 succeeding biennium is due December 31 of the odd-numbered year. The
22 report shall consist of a list of each recipient, project description,
23 and amount of the grant, loan, or both.

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

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