

SENATE BILL REPORT

SB 5677

As Reported by Senate Committee On:
Agriculture & Rural Economic Development, February 05, 2009

Title: An act relating to compliance with the dairy nutrient management program.

Brief Description: Regarding compliance with the dairy nutrient management program.

Sponsors: Senator Hatfield.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 2/02/09, 2/05/09 [DPS].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5677 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

Staff: Bob Lee (786-7404)

Background: The Dairy Nutrient Management Act (DNMA) was amended in 2003 and provides that "all powers, duties, and functions of the Department of Ecology are transferred to the Department of Agriculture." That legislation also provides authority for the agencies to enter into a memorandum of understanding that includes administration of federal requirements relating to concentrated animal feeding operations.

Since the effective date of the 2003 legislation, the Washington State Department of Agriculture (WSDA) has been inspecting dairy farms for compliance with the DNMA. In transferring the program, specific authority was not conveyed to WSDA to obtain search warrants if access to conduct an inspection was denied by a dairy operator. If denied, WSDA has to rely on the Department of Ecology's current statutory authority to obtain access.

Dairy nutrient management plans and Natural Resource Conservation Service (NRCS) standards include requirements to apply nutrients within agronomic rates as a means of preventing discharges of nutrients to waters of the state. NRCS requires records of nutrient

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

applications to be maintained for three years. Dairies that hold National Pollution Discharge Elimination System (NPDES) permits are currently required to keep nutrient applications records for five years. To be a violation, current law requires that (1) a discharge occur, and (2) nutrients were applied in excess of agronomic rates. As a means of reducing the potential to pollute, it is proposed that it be a separate violation to fail to maintain records adequate to show that dairy nutrients were applied within acceptable agronomic rates.

Summary of Bill (Recommended Substitute): The Department of Agriculture is authorized to enter onto dairy farms at all reasonable times for the purpose of inspecting and investigating conditions relating to pollution of waters. If access is denied, WSDA may apply to court for a search warrant to authorize access to the property and facilities to conduct tests and inspections, to take samples, and to examine records.

It is a separate violation to fail to maintain records to show that application of nutrients to land were applied within acceptable agronomic rates. This record keeping requirement is lengthened to five years for all dairy farms beginning on July 1, 2011.

EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute): The original bill provided a separate offense if records of nutrient applications were not maintained for three years. The substitute bill phases in the requirement so that records of nutrient applications for all dairies be maintained for five years.

Three sections of the Dairy Nutrient Management Act are repealed including:

1. environmental excellence program agreements;
2. regional technical assistance teams; and
3. requirements to develop outcome focused performance measures.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: None.

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

Staff Summary of Public Testimony: PRO: The Department of Agriculture has been inspecting dairy farms for several years. WSDA shouldn't have to rely on the authority of the Department of Ecology to obtain access to dairy farms if inspectors were denied access. Extending the time that all dairies must maintain records of nutrient applications will help to assure that they are not applied above acceptable agronomic rates as contained in the dairy nutrient management plans and will better assure ground water is protected. Three sections of law are outdated and no longer used.

Persons Testifying: PRO: Jay Gordon, Washington State Dairy Federation; Gregg Grunenfelder, Department of Health; Mary Beth Lang, Department of Agriculture.