

HOUSE BILL REPORT

ESHB 1489

As Amended by the Senate

Title: An act relating to protecting water quality through restrictions on fertilizer containing phosphorus.

Brief Description: Protecting water quality through restrictions on fertilizer containing phosphorus.

Sponsors: House Committee on Environment (originally sponsored by Representatives Billig, Morris, Frockt, Carlyle, Crouse, Ryu, Finn, Jinkins, Fitzgibbon, Tharinger, Rolfes, Lias, Moscoso, Stanford, Dunshee, Pettigrew, Ladenburg, Ormsby, Van De Wege, Moeller, Hunt, Pedersen, Maxwell, Roberts, Reykdal, Kagi, Darneille, Clibborn, Jacks and Kenney).

Brief History:

Committee Activity:

Environment: 2/4/11, 2/8/11, 2/10/11 [DPS].

Floor Activity:

Passed House: 2/28/11, 58-39.

Senate Amended.

Passed Senate: 3/25/11, 32-16.

Brief Summary of Engrossed Substitute Bill

- Prohibits, with some exceptions, the use and retail sale of turf fertilizers that are labeled to contain phosphorus.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Rolfes, Vice Chair; Crouse, Fitzgibbon, Jacks, Jinkins, Moscoso and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Nealey, Pearson and Takko.

Staff: Jason Callahan (786-7117).

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.

Background:

Only commercial fertilizer that has been registered with the Washington Department of Agriculture (WSDA) may be distributed. Registering with the WSDA includes the creation of a label for each product. Most packaged commercial fertilizers must have, placed on or affixed to the package, a conspicuous label stating in a clear, legible form the product name, the net weight, the brand, and the grade. Both the registration form submitted to the WSDA and label must identify if the products are waste-derived fertilizers, micronutrient fertilizers, or fertilizer materials containing phosphate.

It is unlawful to distribute misbranded commercial fertilizer.

Summary of Engrossed Substitute Bill:

Beginning on January 1, 2013, the sale and application of turf fertilizer that is labeled as containing phosphorus to turf is prohibited. These prohibitions do not apply if the fertilizer is being used to establish or repair grass during a growing season, for adding phosphorus to soils with deficient plant-available phosphorus levels, or for application to pasture lands, houseplants, flower or vegetable gardens, or agricultural or silvicultural lands.

Retailers may not display turf fertilizers labeled as containing phosphorus unless the product is also labeled for one of the permitted uses.

Local governments are authorized to adopt more restrictive ordinances on the use of phosphorous-containing fertilizer.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes the intent section, removes language specifying that fertilizers derived solely from organic materials are not turf fertilizers, removes language specifically allowing a local government to adopt a more restrictive phosphorus-based fertilizer standard, and includes language that allows retail stores to sell stock of phosphorus-based fertilizer that is in the store prior to the end of 2011.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect January 1, 2013.

Staff Summary of Public Testimony:

(In support) Phosphorus is known to contribute to dangerous algae blooms in freshwater lakes and rivers thus threatens the state's commitment to clean water. High phosphorus water levels are a statewide issue with local areas of concern. This is a modest and simple approach that builds on the existing ban on phosphorus in dishwasher detergent.

This approach only targets turf fertilizer, which does not need to contain phosphorus to be effective. The current default in stores is that all lawn fertilizer has phosphorus and a customer has to ask for the fertilizer without phosphorus. The reverse of this should be true. This is a cost-effective approach to addressing water quality issues. Turf fertilizer is not the only source of phosphorus, but it is a source that can be addressed.

Other states have seen reduced phosphorus levels in water after passing similar legislation. Costs to public infrastructure due to no longer needing to treat water for toxic algae will be avoided. Many fertilizers on the market have low phosphorus levels, and some companies will be phosphorus-free soon.

(With concerns) There is no science that backs the policy of banning the use of turf fertilizer containing phosphorus.

(Neutral) There is no data that supports the assumption that less phosphorus in turf fertilizer results in improved water quality.

(Opposed) There are approximately 60,000 lakes in Washington and only a small percentage have phosphorus issues. Phosphorus binds to plant roots and does not move out into the environment. Rivers that have high phosphorus levels are being affected by natural sources, activities in upstream states, fish hatcheries, and other non-turf sources. High phosphorus levels in water have no correlation to turf fertilizer use. It may be easy to regulate fertilizer, but that does not mean it is the correct course to take. Other states with similar bans have not been able to show a corollary reduction in water phosphorus levels.

Phosphorus is necessary for maintaining grass thus reducing the need for additional fertilizers and fungicides. It is potentially harmful to use fertilizers with phosphorus on impervious soils, but not on turf. If turf fertilizer is mandated to be phosphorus free, than people would simply use less efficient sources of phosphorus to keep plants healthy. Less healthy plants would lead to more soil erosion. Education would be more beneficial than regulation.

Persons Testifying: (In support) Representative Billig, prime sponsor; Joe Daniels, Washington State Lakes Protection Association; Clifford Traisman, Washington Environmental Council; Bart Mihailovich, Spokane River Keeper; Elizabeth Ledoux, King County Government; Jonathan Frodge, City of Seattle; Herb Kiekenapp, The Scotts Company; and Mary Moore, League of Women Voters of Washington.

(With concerns) Jeanne McNeil, Washington State Nursery and Landscape Association.

(Neutral) Eric Miltner, Washington State University.

(Opposed) Heather Hanson, Washington Friends of Farms and Forest, Western Washington Golf Course Superintendents Association, Washington Association of Professional Landscapers, and Washington State Nursery and Landscape Association; Jim Fitzgerald, Far West Agribusiness Association; Nick Penovich; Matt Johns, Pacific Northwest Sports Turf Manager's Association; Larry Hilhuly, United States Golf Association; Wes McCart, Stevens County Farm Bureau; and Matt Parascand, Wilbur Ellis Company.

Persons Signed In To Testify But Not Testifying: None.