

HOUSE BILL REPORT

HB 2488

As Passed House:
February 13, 2012

Title: An act relating to municipally produced class A biosolids.

Brief Description: Concerning municipally produced class A biosolids.

Sponsors: Representatives Green, Ladenburg, Kelley, Dammeier and Upthegrove.

Brief History:

Committee Activity:

Environment: 1/27/12, 1/31/12 [DP].

Floor Activity:

Passed House: 2/13/12, 57-40.

Brief Summary of Bill

- Adds a new definition of "turf fertilizer" as not including commercial fertilizers derived solely from organic materials, organic-based products where the phosphorus component is derived solely from Class A, exceptional quality biosolids or biosolid products.
- Adds an effective date of January 31, 2013.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass. Signed by 9 members: Representatives Upthegrove, Chair; Tharinger, Vice Chair; Fitzgibbon, Hansen, Jinkins, Moscoso, Pollet, Takko and Wylie.

Minority Report: Do not pass. Signed by 8 members: Representatives Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Crouse, Morris, Nealey, Pearson, Shea and Taylor.

Staff: Anna Jackson (786-7194).

Background:

Fertilizers.

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.

Under state law, only commercial fertilizer that has been registered with the Washington State 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 a conspicuous label, placed on or affixed to the package, stating in clear, legible form the product name, net weight, brand, and 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.

In 2011 the Legislature passed a law that prohibits, with some exceptions, the use and retail sale of turf fertilizers that contain phosphorus, as well as the application of turf fertilizer that contains phosphorus to turf. The prohibition goes into effect on January 1, 2013. The prohibition does not apply in the following situations: (1) if the fertilizer is being used to establish or repair grass during a growing season; (2) for adding phosphorus to soils with deficient plant-available phosphorus levels; or (3) for application to pasture lands, houseplants, flower or vegetable gardens, or agricultural or silvicultural lands.

Biosolids.

Biosolids are nutrient-rich organic materials resulting from the treatment of domestic sewage in a treatment facility. When treated and processed, these residuals can be recycled and applied as fertilizer to improve and maintain productive soils and stimulate plant growth.

Under federal law, there are different rules for different classes of biosolids. Class A biosolids contain no detectible levels of pathogens.

Summary of Bill:

A new definition is added for "turf fertilizer," which does not include commercial fertilizers derived solely from organic materials, organic-based products where the phosphorus component is derived solely from Class A, exceptional quality biosolids or biosolid products.

The section of law containing the definitions for the chapter on fertilizers, minerals, and limes takes effect on January 31, 2013.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Pierce County has spent millions of dollars to develop a wastewater treatment plant that produces an environmentally-friendly biosolid turf fertilizer. One hundred percent of what comes out of the treatment plant is sold as this product. House Bill 1489 from 2011 banned the use and sale of fertilizers containing phosphorus, which is a worthy cause, but the

turf fertilizer that is being produced in Pierce County's treatment plant did not "make the cut" in that bill, even though it is a natural, slow-released phosphorus product; this was an unintended consequence of the bill. Pierce County simply asks that the use and sale of biosolid turf fertilizers become legal under state law.

The product produced by Pierce County, SoundGRO, is a biosolid fertilizer composed of 100 percent Class A biosolids. Pierce County determined this was the most sustainable solution for dealing with our biosolids, due to less odor released than in producing Class B biosolids (or sludge), reducing the final volume of the biosolid material by drying and pelletizing it, and using the biogas as part of the wastewater treatment plant process. Pierce County's facility is in its sixth year of production of SoundGRO. The wastewater treatment process used to produce this product has been approved by the Department of Ecology, and the federal Environmental Protection Agency has endorsed biosolid-based fertilizers as environmentally safe and beneficial to plant growth. Distribution of this product has expanded to five states, and the total volume of product distributed last year in Washington was 2,800 tons.

SoundGRO is a unique product in that it is naturally derived, and also due to the fact that it is licensed under the WSDA and classified as a fertilizer. We did this for certain economic and tax benefits, which the community benefits from, but also for the different marketing options it allows, it can be marketed as a fertilizer. SoundGRO has been very successful and we anticipate more facilities will be built to produce it, based on its success to date.

This bill supports Washington's policy of maximizing the beneficial use of biosolids and other organic-based products. Phosphorus in organic products is released more slowly than in nonorganic ones, so it is not absorbed as quickly by plants. The restrictions for Class A biosolids are less burdensome because the product has already met the requirements of lower class biosolids. Many Class A biosolids are being distributed as products today, but are not subject to the same restrictions as Pierce County's product because they are not licensed and distributed as fertilizers. It does not make sense to treat Pierce County's product differently.

(With concerns) The definition of "turf fertilizer" in the bill is unclear. There are a number of biosolid products on the market today, as well as organic-based products, and it is unclear whether these would fall under the definition of "turf fertilizer." The WSDA believes the intent of last year's legislation was to reduce the amount of phosphorus into the environment; in addition, the WSDA has not seen any conclusive data to indicate a difference between an organic source of phosphorus and nonorganic phosphorus and differing effects on water quality through surface water run-off.

(Opposed) Pierce County has developed a fine product; however, last year, the Legislature decided to ban the use of fertilizers containing phosphorus on turf. Pierce County's product contains phosphorus, so it should not be allowed to be applied on turf. There is another solution, however, in terms of what to do with Pierce County's biosolids: House Bill 1489 from 2011, which is now law, does not limit the use of phosphorus on trees, ornamental plantings, flowers, gardens, etc, other than turf. That market is still available for Pierce County's product. Phosphorus is a naturally occurring element and plants see all phosphorus equally; there is no clear evidence that nonorganic fertilizers have worse results than organic

ones on the environment. If commercial fertilizer is applied properly, there is very little runoff.

Persons Testifying: (In support) Representative Green, prime sponsor; Laurie Davies, Department of Ecology; Larry Ekstrom, and Brynn Brady, Pierce County; and Katherine Brooks, Pierce County Public Water and Sewer Utility.

(With concerns) Mark Streuli, Washington State Department of Agriculture.

(Opposed) Heather Hanson, Washington Friends of Farms and Forests.

Persons Signed In To Testify But Not Testifying: None.