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**SENATE BILL 5525**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Fortunato and Short

Prefiled 12/09/21. Read first time 01/10/22. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to allowing persons to take immediate action to  
2 remedy water quality conditions to protect public health and welfare  
3 without the threat of penalty; amending RCW 90.48.240; and creating a  
4 new section.

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

6 **Sec. 1.** RCW 90.48.240 and 1991 c 200 s 1106 are each amended to  
7 read as follows:

8 (1) Notwithstanding any other provisions of this chapter or  
9 chapter 90.56 RCW, whenever it appears to the director that water  
10 quality conditions exist which require immediate action to protect  
11 the public health or welfare, or that a person required by RCW  
12 90.48.160 to obtain a waste discharge permit prior to discharge is  
13 discharging without the same, or that a person conducting an  
14 operation which is subject to a permit issued pursuant to RCW  
15 90.48.160 conducts the same in violation of the terms of said permit,  
16 causing water quality conditions to exist which require immediate  
17 action to protect the public health or welfare, the director may  
18 issue a written order to the person or persons responsible without  
19 prior notice or hearing, directing and affording the person or  
20 persons responsible the alternative of either (~~(1)~~) (a) immediately  
21 discontinuing or modifying the discharge into the waters of the

1 state, or ((+2+)) (b) appearing before the department at the time and  
2 place specified in said written order for the purpose of providing to  
3 the department information pertaining to the violations and  
4 conditions alleged in said written order. The responsible person or  
5 persons shall be afforded not less than twenty-four hours notice of  
6 such an information meeting. If following such a meeting the  
7 department determines that water quality conditions exist which  
8 require immediate action as described herein, the department may  
9 issue a written order requiring immediate discontinuance or  
10 modification of the discharge into the waters of the state. In the  
11 event an order is not immediately complied with the attorney general,  
12 upon request of the department, shall seek and obtain an order of the  
13 superior court of the county in which the violation took place  
14 directing compliance with the order of the department. Such an order  
15 is appealable pursuant to RCW 43.21B.310.

16 (2) If the department determines under subsection (1) of this  
17 section that water quality conditions exist that require immediate  
18 action to protect the public health or welfare, the department may  
19 allow a person responsible for the conditions to take immediate  
20 action to remedy the problem. The department may not impose a fine or  
21 other penalty for any day on which the department forbade or  
22 prevented a person from taking immediate action that would have  
23 improved water quality conditions.

24 (3) If the department issues a written order under subsection (1)  
25 of this section directing a person to appear before the department  
26 for the purpose of providing information pertaining to the violations  
27 and conditions alleged in the written order, the department shall  
28 allow the person to present a plan to resolve the alleged problem.  
29 The person must be allowed to continue or resume his or her  
30 activities if the person begins to implement the plan that he or she  
31 submitted to the department.

32 NEW SECTION. **Sec. 2.** This act applies to all written orders  
33 under section 1 of this act retroactive to January 1, 2020.

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