

# HOUSE BILL REPORT

## ESSB 6289

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to protecting lake water quality by reducing phosphorus from lawn fertilizers.

**Brief Description:** Protecting lake water quality by reducing phosphorus from lawn fertilizers.

**Sponsors:** Senate Committee on Environment, Water & Energy (originally sponsored by Senators Pridemore, Brandland, Marr, Rockefeller, Brown, Kohl-Welles and Kline).

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/18/10, 2/23/10 [DPA].

**Brief Summary of Engrossed Substitute Bill  
(As Amended by House)**

- Prohibits the application of a fertilizer containing phosphorus to turf after January 1, 2012, with exceptions.
- Authorizes the Department of Ecology to issue a notice of corrective action for violations.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Blake, Chair; Ormsby, Vice Chair; Jacks, Liias, McCoy, Nelson, Rolfes and Van De Wege.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, Pearson and Warnick.

**Staff:** Jaclyn Ford (786-7339).

**Background:**

Phosphorous is a naturally occurring element that stimulates plant growth. When introduced into freshwater, phosphorous promotes growth of weeds and algae and can degrade water

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quality.

The sale of laundry detergent that contains 0.5 percent or more phosphorous by weight is prohibited. Since July 1, 2008, dishwashing detergent that contains 0.5 percent or more phosphorus by weight in counties located east of the crest of the Cascade Mountains, where the population is less than 600,000 but greater than 390,000, is prohibited. Beginning July 1, 2010, the restriction on the sale of dishwashing detergent that contains more than 0.5 percent or more phosphorous by weight is effective statewide.

The sale and distribution of detergents for commercial and industrial uses are exempt from the phosphorus limitation.

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### **Summary of Amended Bill:**

After January 1, 2012, a person may not apply a fertilizer containing phosphorus to turf.

Exceptions include:

- applying a solid fertilizer containing less than 0.67 percent phosphate by weight or a liquid fertilizer applied at a rate not greater than 0.3 pounds of phosphate per 1,000 square feet of turf;
- when test results or other certifications indicate that the level of available phosphorus in the soils is insufficient to support healthy turf growth. The level of phosphorous needed to support healthy turf and the agronomic application rate must be determined by Washington State University;
- new lawns during the first growing season;
- application of turf fertilizer for agricultural uses; and
- application of turf fertilizer for golf courses.

A person may not apply a fertilizer to an impervious surface. If fertilizer is released on an impervious surface, it must be immediately contained and either legally applied to turf or returned to the original or other appropriate container.

The Department of Ecology (DOE) may issue a notice of corrective action if a person is in violation of these provisions. A city or county may adopt an ordinance providing for enforcement of these provisions, as a city or county adopting an ordinance has concurrent jurisdiction.

The DOE, in consultation with the Washington State University Extension Service, fertilizer industry representatives, lakes health organizations, and other interested parties, may produce consumer information on application restrictions and on recommended best practices for turf fertilizer and other residential landscaping uses. This information will be distributed at retail points of sale of fertilizer that contains phosphorus and is used on turf.

Definitions for "fertilizer," "impervious surface," and "turf" are added.

### **Amended Bill Compared to Engrossed Substitute Bill:**

The amended bill adds substances containing phosphorus derived solely from natural organic sources to the fertilizers that are exempt from the provisions of the bill.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 24, 2010.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Freshwater sources have phosphorus problems. Several different methods to decrease phosphorus have been attempted, but water quality has not been improved. Households will still be able to buy and apply fertilizer with phosphorus. Restricting phosphorus in fertilizers is an effective way to reduce phosphorus in freshwater. Lawn fertilizer is a significant source of phosphorus in freshwater, according to several scientific reports. There are 36 lakes in Washington listed as impaired under the Clean Water Act. This will help reduce phosphorus and remove those lakes from the impairment list. This will improve water quality and reduce phosphorus loading. Human activities contribute to phosphorus loading. If we can limit the phosphorus, we can limit the amount of toxic algae. Enforcement is optional.

(With concerns) The term "organic materials" does not include animal materials such as bone meal or crushed shells.

(Opposed) The Washington State Department of Agriculture already has specific and legal authority to deal with this issue. Therefore, the DOE should not be given authority, its authority would be duplicative. This is a bad use of public funds. Many soils in western Washington are not high in phosphorus which can lead to increased soil erosion. The bill is unclear in areas of enforcement. The WSDA should be the lead agency. Manure is exempt but is more likely to leach into freshwater. Commercial applicators should be exempt.

**Persons Testifying:** (In support) Beth Cullen, King County and Washington Lakes Protection Association; Jonathan Frodge, Seattle Public Utilities and Washington Lakes Protection Association; Bridget Moran, Department of Natural Resources; Sally Abella and Joe Daniels, Washington Lakes Protection Association.

(With concerns) Amber Ulvenes, Central Garden and Pet; and Tom McBride, Far West Agribusiness Association.

(Opposed) Heather Hansen, Washington Friends of Farms and Forests and Washington Association of Landscape Professionals; and Erik Johansen.

**Persons Signed In To Testify But Not Testifying:** (In support) Steve Kalenius, Washington Lakes Protection Association.