

# SENATE BILL REPORT

## ESHB 1555

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As of February 16, 1996

**Title:** An act relating to entry for the purposes of water pollution investigations on agricultural land.

**Brief Description:** Revising department of ecology entry authority for water quality complaints caused by agricultural activity.

**Sponsors:** House Committee on Agriculture & Ecology (originally sponsored by Representatives McMorris, Foreman, Mastin, Chandler, Chappell, Koster, Boldt, Schoesler, Johnson, Honeyford, Clements, Regala, Basich, Hargrove, L. Thomas, Thompson, Delvin, Elliot, Goldsmith, McMahan, Mulliken, Fuhrman, Stevens and Lisk).

**Brief History:**

**Committee Activity:** Ecology & Parks: 2/22/96.

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### SENATE COMMITTEE ON ECOLOGY & PARKS

**Staff:** Kari Guy (786-7437)

**Background:** Under the State Water Pollution Control Act, the Department of Ecology is responsible for controlling and preventing pollution of state waters. Water quality problems due to agricultural sources are addressed in a memorandum of agreement between the Department of Ecology and the Washington Conservation Commission. The agreement recognizes a working relationship between the Department of Ecology and local conservation districts for carrying out a program of agricultural water quality protection and management.

Under the agreement, the Department of Ecology is initially responsible for receiving and verifying complaints concerning agricultural pollutant discharge, and determining whether the discharge requires immediate corrective action. The local conservation district then is responsible for providing farms with information, problem assessment, and technical assistance in developing agricultural best management practices.

Where a problem is not corrected through consultation with the conservation district, enforcement may be taken by the Department of Ecology through a notice of violation, an administrative order directing the violator to take a specific course of action, or a civil penalty. In 1994, enforcement action was taken at 17 different sites. Nine of the 17 sites were referred back to Ecology from a conservation district due to a lack of cooperation from the farm. Civil penalties were issued at four sites.

The Department of Ecology is authorized under the State Water Pollution Control Act to enter public or private property at all reasonable times to investigate potential pollution of waters of the state.

**Summary of Bill:** Except in the case of an emergency, the Department of Ecology must provide at least seven days' notice to a person alleged to have engaged in polluting activities before entering agricultural property.

When the Department of Ecology receives a complaint that pollution has occurred, the department must document the time the alleged pollution occurred, and the name and address of the person who made the complaint. Information revealing the identity of the person who made the complaint is exempt from public inspection and copying to the extent that it is protected under the state Public Disclosure Act.

The Department of Ecology is not precluded from executing a valid search warrant for entering onto property used for agricultural production.

The Department of Ecology may only send a notice that a violation of water quality standards is occurring based on cogent, site-specific scientific evidence. The department may not issue an administrative order without cogent, site-specific scientific evidence.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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