
SENATE BILL 5309

State of Washington **54th Legislature** **1995 Regular Session**

By Senators Morton, Rasmussen, Deccio and Hochstatter

Read first time 01/18/95. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to entry for the purposes of water pollution
2 investigations on agricultural land; amending RCW 90.48.120; adding a
3 new section to chapter 90.48 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a need
6 to establish a clear process for handling complaints regarding water
7 quality from uses of agricultural land for livestock production
8 purposes near waters of the state.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48 RCW
10 to read as follows:

11 (1) In exercising its authority under RCW 90.48.090, in
12 investigating conditions on private agricultural land used for
13 livestock production, the department must comply with this section.

14 (2) The department shall have the authority to investigate
15 conditions on private agricultural property used for livestock
16 production relating to actions causing pollution of the waters of the
17 state where:

1 (a) A complaint is received by the department from any person
2 demonstrating cogent, site-specific scientific evidence that waters of
3 the state are being polluted;

4 (b) The complaint is recorded and documented as to the person
5 filing the complaint to the department, the time of any alleged
6 pollution, and the persons standing as to the nuisance;

7 (c) The complaint gives the name, address, time of pollution, and
8 cogent, site-specific scientific evidence that waters of the state are
9 being polluted. This subsection (2)(c) shall apply to any department
10 personnel or any other person filing a complaint with the department;
11 and

12 (d) The department notifies, consults, and receives permission for
13 entry from:

14 (i) The person against whom the complaint is made; and

15 (ii) The private property owner if that is a different person from
16 the person in (d)(i) of this subsection.

17 (3) When the department has an agreement or permit with a person
18 against whom a complaint is made, the department shall observe the
19 provisions of the agreement or permit.

20 (4) Nothing in this chapter shall preclude the department from
21 executing a valid search warrant for legal entry onto private property
22 used for agricultural production to comply with the provisions of this
23 section and RCW 90.48.120.

24 **Sec. 3.** RCW 90.48.120 and 1992 c 73 s 25 are each amended to read
25 as follows:

26 (1) Whenever(~~(, in the opinion of)~~) the department(~~(,)~~) has cogent,
27 site-specific scientific evidence that any person ((shall violate)) is
28 violating or creates a substantial ((potential)) likelihood, as
29 demonstrated by cogent, site-specific scientific evidence to violate
30 the provisions of this chapter or chapter 90.56 RCW, or fails to
31 control the polluting content of waste discharged or to be discharged
32 into any waters of the state, the department shall notify such person
33 of its determination by registered mail. Such determination shall not
34 constitute an order or directive under RCW 43.21B.310. Within thirty
35 days from the receipt of notice of such determination, such person
36 shall file with the department a full report stating what steps have
37 been and are being taken to control such waste or pollution or to
38 otherwise comply with the determination of the department. Whereupon

1 the department shall issue such order or directive as it deems
2 appropriate under the circumstances, and shall notify such person
3 thereof by registered mail.

4 (2) Whenever the department deems immediate action is necessary,
5 after obtaining cogent, site-specific scientific evidence, to
6 accomplish the purposes of this chapter or chapter 90.56 RCW, it may
7 issue such order or directive, as appropriate under the circumstances,
8 without first issuing a notice or determination pursuant to subsection
9 (1) of this section. An order or directive issued pursuant to this
10 subsection shall be served by registered mail or personally upon any
11 person to whom it is directed.

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