

ANALYSIS OF SSB 5208

*House Agriculture & Ecology Committee
1997*

April 2,

BACKGROUND:

The Department of Ecology has been given the authority to adopt such rules and regulations as may be necessary to meet the requirements of the federal Clean Water Act. The Department of Ecology may enter property at reasonable times to investigate, inspect or monitor suspected violations of water quality standards.

The Department of Ecology has been directed to enforce air quality standards and emission standards throughout the state except in those locations where a local authority is enforcing the state standards or stricter local standards. Air pollution control agency control officers and the Department of Ecology are authorized to enter private property at reasonable times to investigate complaints of violations of the Clean Air Act.

Current statutory law does not require people who make complaints of suspected environmental violations to sign the complaints. No person may refuse entry to agency representatives who present appropriate credentials and request entry for the purpose of making an inspection.

SUMMARY:

The Department of Ecology and the air pollution control authorities are authorized to enter private and public property, at reasonable times and upon presentation of credentials, to investigate possible releases of air pollutants. If a request for entry is denied, the attorney general may seek judicial intervention to gain entry by warrant or court order, but may not seek criminal or civil penalties for the refusal of entry or access. The investigation must be based upon the personal observation of the investigator, or upon substantive allegations contained in a signed complaint, and must be limited to determining whether the suspected release violated state or federal clean air laws or rules, emission permit conditions, or agency orders or directives. Formal enforcement action may be taken by the state only when cogent site-specific scientific evidence supports a finding that a violation had occurred.

The Department of Ecology is authorized to enter private and public property on which an effluent source is located, at reasonable times and upon presentation of credentials, to investigate possible releases of water pollutants. The investigation must be based upon the personal observation of the investigator, or upon substantive allegations contained in a signed

complaint, that there is probable cause to believe a violation of the water pollution control act or the oil and hazardous spill prevention and response act has occurred or is about to occur.

The civil liability exemption generally available to those who make good faith reports to government agencies is specifically made available to individuals who in good faith file air or water pollution complaints covered by the provisions of this legislation. Those individuals who knowingly and maliciously include false information in such complaints are declared guilty of a gross misdemeanor. The exemption from public inspection and copying of the contents of such complaints is recognized, but limited to those complaints which are made a part of the record supporting a finding that a violation had occurred or was about to occur.

The provisions of this legislation are not to be interpreted as diminishing the authority of the Department of Ecology to meet the minimum requirements for qualifying the state to administer the federal Clean Water Act.