

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5424**

Chapter 255, Laws of 1999

56th Legislature  
1999 Regular Session

AQUATIC PLANT MANAGEMENT--COMMERCIAL HERBICIDES

EFFECTIVE DATE: 5/10/99

Passed by the Senate April 22, 1999  
YEAS 44 NAYS 0

BRAD OWEN  
President of the Senate

Passed by the House April 16, 1999  
YEAS 65 NAYS 30

CLYDE BALLARD  
Speaker of the  
House of Representatives

FRANK CHOPP  
Speaker of the  
House of Representatives

Approved May 10, 1999

GARY LOCKE  
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5424** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
Secretary

FILED

May 10, 1999 - 4:45 p.m.

Secretary of State  
State of Washington

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ENGROSSED SUBSTITUTE SENATE BILL 5424

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AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Environmental Quality & Water Resources  
(originally sponsored by Senators Winsley, Fraser, Honeyford,  
Hochstatter, Hale, McCaslin, West and Haugen)

Read first time 02/15/1999.

1 AN ACT Relating to aquatic plant management; adding new sections to  
2 chapter 90.48 RCW; creating new sections; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the  
5 environmental, recreational, and aesthetic values of many of the  
6 state's lakes are threatened by the invasion of nuisance and noxious  
7 aquatic weeds. Once established, these nuisance and noxious aquatic  
8 weeds can colonize the shallow shorelines and other areas of lakes with  
9 dense surface vegetation mats that degrade water quality, pose a threat  
10 to swimmers, and restrict use of lakes. Algae can generate health and  
11 safety conditions dangerous to fish, wildlife, and humans. The current  
12 environmental impact statement is causing difficulty in responding to  
13 environmentally damaging weed and algae problems. Many commercially  
14 available herbicides have been demonstrated to be effective in  
15 controlling nuisance and noxious aquatic weeds and algae and do not  
16 pose a risk to the environment or public health. The purpose of this  
17 act is to allow the use of commercially available herbicides that have  
18 been approved by the environmental protection agency and the department  
19 of agriculture and subject to rigorous evaluation by the department of

1 ecology through an environmental impact statement for the aquatic plant  
2 management program.

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

5 (1) The department of ecology shall update the final supplemental  
6 environmental impact statement completed in 1992 for the aquatic plant  
7 management program to reflect new information on herbicides evaluated  
8 in 1992 and new, commercially available herbicides. The department  
9 shall maintain the currency of the information on herbicides and  
10 evaluate new herbicides as they become commercially available.

11 (2) For the 1999 treatment season, the department shall permit by  
12 May 15, 1999, municipal experimental application of herbicides such as  
13 hydrothol 191 for algae control in lakes managed under chapter 90.24  
14 RCW. If experimental use is determined to be ineffective, then the  
15 department shall within fourteen days consult with other state,  
16 federal, and local agencies and interested parties, and may permit the  
17 use of copper sulfate. The Washington institute for public policy  
18 shall contract for a study on the lake-wide effectiveness of any  
19 herbicide used under this subsection. Prior to issuing the contract  
20 for the study, the institute for public policy shall determine the  
21 parameters of the study in consultation with licensed applicators who  
22 have recent experience treating the lake and with the nonprofit  
23 corporation that participated in centennial clean water fund phase one  
24 lake management studies for the lake. The parameters must include  
25 measurement of the lake-wide effectiveness of the application of the  
26 herbicide in maintaining beneficial uses of the lake, including any  
27 uses designated under state or federal water quality standards. The  
28 effectiveness of the application shall be determined by objective  
29 criteria such as turbidity of the water, the effectiveness in killing  
30 algae, any harm to fish or wildlife, any risk to human health, or other  
31 criteria developed by the institute. The results of the study shall be  
32 reported to the appropriate legislative committees by December 1, 1999.  
33 A general fund appropriation in the amount of \$35,000 is provided to  
34 the Washington institute for public policy for fiscal year 1999 for the  
35 study required under this subsection.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48 RCW  
37 to read as follows:

1 (1) Subject to restrictions in this section, a government entity  
2 seeking to control a limited infestation of Eurasian water milfoil may  
3 use the pesticide 2,4-D to treat the milfoil infestation, without  
4 obtaining a permit under RCW 90.48.445, if the milfoil infestation is  
5 either recently documented or remaining after the application of other  
6 control measures, and is limited to twenty percent or less of the  
7 littoral zone of the lake. Any pesticide application made under this  
8 section must be made according to all label requirements for the  
9 product and must meet the public notice requirements of subsection (2)  
10 of this section.

11 (2) Before applying 2,4-D, the government entity shall: (a)  
12 Provide at least twenty-one days' notice to the department of ecology,  
13 the department of fish and wildlife, the department of agriculture, the  
14 department of health, and all lake residents; (b) post notices of the  
15 intent to apply 2,4-D at all public access points; and (c) place  
16 informational buoys around the treatment area.

17 (3) The department of fish and wildlife may impose timing  
18 restrictions on the use of 2,4-D to protect salmon and other fish and  
19 wildlife.

20 (4) The department may prohibit the use of 2,4-D if the department  
21 finds the product contains dioxin in excess of the standard allowed by  
22 the United States environmental protection agency. Sampling protocols  
23 and analysis used by the department under this section must be  
24 consistent with those used by the United States environmental  
25 protection agency for testing this product.

26 (5) Government entities using this section to apply 2,4-D may apply  
27 for funds from the freshwater aquatic weeds account consistent with the  
28 freshwater aquatic weeds management program as provided in RCW  
29 43.21A.660.

30 (6) Government entities using this section shall consider  
31 development of long-term control strategies for eradication and control  
32 of the Eurasian water milfoil.

33 (7) For the purpose of this section, "government entities" includes  
34 cities, counties, state agencies, tribes, special purpose districts,  
35 and county weed boards.

36 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this  
37 act, referencing this act by bill or chapter number, is not provided by

1 June 30, 1999, in the omnibus appropriations act, this act is null and  
2 void.

3 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 immediately.

Passed the Senate April 22, 1999.

Passed the House April 16, 1999.

Approved by the Governor May 10, 1999.

Filed in Office of Secretary of State May 10, 1999.