

SENATE BILL REPORT

SB 5453

As Reported By Senate Committee On:
Environment, Energy & Water, February 1, 2001

Title: An act relating to the investigation of conditions by a control officer.

Brief Description: Authorizing an air pollution control officer to request a search warrant for investigative purposes.

Sponsors: Senator Deccio.

Brief History:

Committee Activity: Environment, Energy & Water: 1/30/01, 2/1/01 [DP].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: Do pass.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Honeyford, McDonald and Morton.

Staff: Richard Rodger (786-7461)

Background: Air pollution control officers and Department of Ecology employees are authorized to conduct investigations into the release of air contaminants into the atmosphere. Their authority includes the right to enter private or public property. The current statute states that "no person shall refuse entry or access to any officer" or employee who is conducting an air contamination inspection.

In 1994, the Washington State Supreme Court issued two opinions regarding the city of Seattle's authority to inspect private apartment complexes for possible violations of the city housing codes. These decisions generally held that an administrative search warrant was required for an administrative search. The court further held that, because the statute was civil in nature, it must specifically grant the court authority to issue the warrant.

Summary of Bill: Air pollution control officers and Department of Ecology employees are required, once entry is refused, to obtain a search warrant in order to enter property for the purpose of investigating the release of air contaminants.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill will bring the state statutes into compliance with the U.S. Constitution, the state Constitution, and court decisions from both the state and federal

supreme courts. The EPA has recognized that this change is needed and has issued guidance to its regional administrators and directors acknowledging that a search warrant should be requested when access to private property is denied.

Testimony Against: None.

Testified: Senator Alex Deccio, prime sponsor; Clarence Barnett, Councilman, City of Yakima (pro); Richard Zais, City of Yakima, City Manager (pro); Mike Ryherd, Puget Sound Clean Air Agency (pro); Jim Nolan, Compliance Officer, PSCAA (pro).