

SENATE BILL REPORT

SB 5603

As of February 8, 2001

Title: An act relating to citizen enforcement of health and environmental laws.

Brief Description: Providing for citizen enforcement of health and environmental laws.

Sponsors: Senators Kline, Kohl-Welles and Fairley.

Brief History:

Committee Activity: Judiciary: 2/12/01.

SENATE COMMITTEE ON JUDICIARY

Staff: Lilah Amos (786-7421)

Background: While protection of public health, natural resources, and the environment is a governmental priority, the government agencies charged with this responsibility are sometimes not able to vigorously enforce all laws, given limited resources and a large number of regulated areas. Citizen enforcement of regulations in these areas is a tool proposed to assist governmental agencies in protecting public health, natural resources, and the environment.

Summary of Bill: Any citizen may commence a civil action against any person, corporation, or governmental entity alleged to have violated an environmental or public health standard or requirement, or a governmental agency's order on such standard or requirement, if there is evidence of more than one day or instance of violation.

The action may not be filed until 60 days after the plaintiff gives notice of the violation to the alleged violator, the state Attorney General, and the agency primarily responsible for enforcement, with specific information allowing identification of the subject of the action. The action can be commenced immediately upon giving notice only when the violations present a substantial risk of immediate and irreparable danger to human health or the environment. No private action is authorized if a state agency has previously commenced an action which includes as a remedy the cessation of the violation and a monetary penalty substantially equivalent to the violator's benefit gained by the violation.

Upon finding a violation of an environment or public health standard, unless injustice would result, the court must: (1) assess a civil penalty against the violator which is greater than the economic benefit of the violations, but not exceeding \$10,000 per violation per day, and (2) award costs of litigation, including attorneys' and expert witness' fees, to the prevailing party. The court may enforce the standard, requirement or order, and may grant other injunctive relief.

This act is not intended to impose additional liability on state or local governments for failing to enforce these violations.

Appropriation: None.

Fiscal Note: Requested on February 8, 2001.

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