
SUBSTITUTE SENATE BILL 5723

State of Washington

62nd Legislature

2011 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Ericksen, Haugen, Hatfield, Delvin, and Shin)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to addressing water quality issues associated with
2 livestock operations; amending RCW 90.48.144; creating a new section;
3 and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The conservation commission shall
6 coordinate a process to examine the issue of achieving the state's
7 water quality objectives relating to livestock operations. The
8 directors of the department of agriculture, the department of ecology,
9 and the conservation commission shall determine what personnel are
10 assigned to this activity and may provide oversight to the process. In
11 implementing this process, the commission shall involve representatives
12 of involved agencies, stakeholders, and tribes. The topics to be
13 considered include:

14 (a) The appropriate background and training for personnel that
15 conduct inspections of and provide technical assistance to livestock
16 operators and whether personnel need to be specifically trained and
17 assigned to serve this function;

18 (b) The roles and relationships between technical assistance,
19 inspection, and enforcement, and the concept of customer service;

1 (c) The use, availability, and limitations of DNA testing as a
2 water quality diagnosis tool;

3 (d) The availability and constraints of state and federal programs
4 for planning, installation, maintenance of conservation and pollution
5 control practices, and review of alternative practices;

6 (e) The extent of known water quality problems relating to
7 livestock operations;

8 (f) Best methods to achieve state water quality objectives in the
9 context of a system that includes both regulatory and incentive-based
10 approaches;

11 (g) A review of considerations used to determine water quality
12 standards including those applicable to the shellfish industry; and

13 (h) The availability of state and federal funding and whether it is
14 being appropriately allocated.

15 (2) The conservation commission shall develop recommendations for
16 the administration and improvement of the program. The commission
17 shall provide a written summary of its activities and recommendations
18 to the legislature and the governor by December 1, 2011.

19 (3) The activities under this section shall be completed to the
20 extent feasible from within existing fiscal resources available to the
21 involved state agencies.

22 (4) This section expires December 31, 2011.

23 **Sec. 2.** RCW 90.48.144 and 1995 c 403 s 636 are each amended to
24 read as follows:

25 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
26 43.05.150, every person who:

27 ~~((1))~~ (a) Violates the terms or conditions of a waste discharge
28 permit issued pursuant to RCW 90.48.180 or 90.48.260 through 90.48.262,
29 or

30 ~~((2))~~ (b) Conducts a commercial or industrial operation or other
31 point source discharge operation without a waste discharge permit as
32 required by RCW 90.48.160 or 90.48.260 through 90.48.262, or

33 ~~((3))~~ (c) Violates the provisions of RCW 90.48.080, or other
34 sections of this chapter or chapter 90.56 RCW or rules or orders
35 adopted or issued pursuant to either of those chapters, shall incur, in
36 addition to any other penalty as provided by law, a penalty in an
37 amount of up to ten thousand dollars a day for every such violation.

1 Each and every such violation shall be a separate and distinct offense,
2 and in case of a continuing violation, every day's continuance shall be
3 and be deemed to be a separate and distinct violation. Every act of
4 commission or omission which procures, aids or abets in the violation
5 shall be considered a violation under the provisions of this section
6 and subject to the penalty herein provided for. The penalty amount
7 shall be set in consideration of the previous history of the violator
8 and the severity of the violation's impact on public health and/or the
9 environment in addition to other relevant factors. The penalty herein
10 provided for shall be imposed pursuant to the procedures set forth in
11 RCW 43.21B.300.

12 (2) The department may not impose a civil penalty under this
13 chapter to a livestock operation as a nonpoint source until it has
14 received testing results for: (a) A sample taken from above and from
15 below the livestock operation for determination of the total level of
16 fecal coliform in each sample; and (b) a sample from the stream segment
17 that flows adjacent to the livestock operation for DNA testing using
18 the best currently available technology.

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