

# SENATE BILL REPORT

## SB 5910

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As of February 20, 1995

**Title:** An act relating to citizen lawsuits.

**Brief Description:** Requiring the department of ecology to enforce the clean water act especially with regard to citizen lawsuits.

**Sponsors:** Senators Swecker, Oke, Wood, Johnson, Schow, Palmer and Finkbeiner.

**Brief History:**

**Committee Activity:** Ecology & Parks: 2/23/95.

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### SENATE COMMITTEE ON ECOLOGY & PARKS

**Staff:** Gary Wilburn (786-7453)

**Background:** The federal Clean Water Act authorizes citizen suits for the enforcement of provisions of the federal law, or to enforce federal or state orders with respect to those provisions. The State of Washington has received delegation from the federal government to administer certain aspects of the federal law, principally the National Pollutant Discharge Elimination System (NPDES) (commonly called the NPDES permit program).

The federal law requires that before a citizen suit may be filed against an alleged violator, notice must be given to the U.S. Environmental Protection Agency (USEPA) administrator and to the state to provide an opportunity for a government-initiated enforcement action. If either the USEPA or the state initiates enforcement action within 60 days, the citizen suit may not be filed. A citizen suit may not be filed if the USEPA or the state has already commenced and is diligently prosecuting an enforcement action. The court may award reasonable attorneys' fees to prevailing parties in water quality citizen suits.

**Summary of Bill:** Findings are made regarding the importance of state enforcement of the federal Clean Water Act. The Department of Ecology must initiate an enforcement action for which notice is provided of a citizen suit under federal law. The state enforcement action must be commenced within 45 days of receipt of notice, and the department is required diligently pursue the action to adjudication or a consent decree is entered by a court of competent jurisdiction.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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