

2 **SB 6726** - S AMD 609

3 By Senators Rasmussen, Honeyford and Swecker

4 ADOPTED 02/18/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 90.64.030 and 1998 c 262 s 11 are each amended to
8 read as follows:

9 (1) Under the inspection program established in RCW 90.64.023, the
10 department may investigate a dairy farm to determine whether the
11 operation is discharging pollutants or has a record of discharging
12 pollutants into surface or ground waters of the state. Upon concluding
13 an investigation, the department shall make a written report of its
14 findings, including the results of any water quality measurements,
15 photographs, or other pertinent information, and provide a copy of the
16 report to the dairy producer within twenty days of the investigation.

17 (2) The department shall investigate a written complaint filed with
18 the department within three working days and shall make a written
19 report of its findings including the results of any water quality
20 measurements, photographs, or other pertinent information. Within
21 twenty days of receiving a written complaint, a copy of the findings
22 shall be provided to the dairy producer subject to the complaint
23 ((within twenty days)), and to the complainant if the person gave his
24 or her name and address to the department at the time the complaint was
25 filed.

26 (3) The department may consider past complaints against the same
27 dairy farm from the same person and the results of its previous
28 inspections, and has the discretion to decide whether to conduct an
29 inspection if:

30 (a) The same or a similar complaint or complaints have been filed
31 against the same dairy farm within the immediately preceding six-month
32 period; and

33 (b) The department made a determination that the activity that was
34 the subject of the prior complaint was not a violation.

35 (4) If the decision of the department is not to conduct an
36 inspection, it shall document the decision and the reasons for the

1 decision within twenty days. The department shall provide the decision
2 to the complainant if the name and address were provided to the
3 department, and to the dairy producer subject to the complaint, and the
4 department shall place the decision in the department's administrative
5 records.

6 (5) The report of findings of any inspection conducted as the
7 result of either an oral or a written complaint shall be placed in the
8 department's administrative records. Only findings of violations shall
9 be entered into the data base identified in RCW 90.64.130.

10 ~~((+3))~~ (6) A dairy farm that is determined to be a significant
11 contributor of pollution based on actual water quality tests,
12 photographs, or other pertinent information is subject to the
13 provisions of this chapter and to the enforcement provisions of
14 chapters 43.05 and 90.48 RCW, including civil penalties levied under
15 RCW 90.48.144.

16 ~~((+4))~~ (7) If the department determines that an unresolved water
17 quality problem from a dairy farm requires immediate corrective action,
18 the department shall notify the producer and the district in which the
19 problem is located. When corrective actions are required to address
20 such unresolved water quality problems, the department shall provide
21 copies of all final dairy farm inspection reports and documentation of
22 all formal regulatory and enforcement actions taken by the department
23 against that particular dairy farm to the local conservation district
24 and to the appropriate dairy farm within twenty days.

25 ~~((+5))~~ (8) For a violation of water quality laws that is a first
26 offense for a dairy producer, the penalty may be waived to allow the
27 producer to come into compliance with water quality laws. The
28 department shall record all legitimate violations and subsequent
29 enforcement actions.

30 ~~((+6))~~ (9) A discharge, including a storm water discharge, to
31 surface waters of the state shall not be considered a violation of this
32 chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall
33 therefore not be enforceable by the department of ecology or a third
34 party, if at the time of the discharge, a violation is not occurring
35 under RCW 90.64.010(18). In addition, a dairy producer shall not be
36 held liable for violations of this chapter, chapter 90.48 RCW, chapter
37 173-201A WAC, or the federal clean water act due to the discharge of
38 dairy nutrients to waters of the state resulting from spreading these
39 materials on lands other than where the nutrients were generated, when

1 the nutrients are spread by persons other than the dairy producer or
2 the dairy producer's agent.

3 ~~((+7))~~ (10) As provided under RCW 7.48.305, agricultural
4 activities associated with the management of dairy nutrients are
5 presumed to be reasonable and shall not be found to constitute a
6 nuisance unless the activity has a substantial adverse effect on public
7 health and safety.

8 ~~((+8))~~ (11) This section specifically acknowledges that if a
9 holder of a general or individual national pollutant discharge
10 elimination system permit complies with the permit and the dairy
11 nutrient management plan conditions for appropriate land application
12 practices, the permit provides compliance with the federal clean water
13 act and acts as a shield against citizen or agency enforcement for any
14 additions of pollutants to waters of the state or of the United States
15 as authorized by the permit.

16 ~~((+9))~~ (12) A dairy producer who fails to have an approved dairy
17 nutrient management plan by July 1, 2002, or a certified dairy nutrient
18 management plan by December 31, 2003, and for which no appeals have
19 been filed with the pollution control hearings board, is in violation
20 of this chapter. Each month beyond these deadlines that a dairy
21 producer is out of compliance with the requirement for either plan
22 approval or plan certification shall be considered separate violations
23 of chapter 90.64 RCW that may be subject to penalties. Such penalties
24 may not exceed one hundred dollars per month for each violation up to
25 a combined total of five thousand dollars. Failure to register as
26 required in RCW 90.64.017 shall subject a dairy producer to a maximum
27 penalty of one hundred dollars. Penalties shall be levied by the
28 department."

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32 On page 1, line 1 of the title, after "farms;" strike the remainder
33 of the title and insert "and amending RCW 90.64.030."

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