

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5602**

59th Legislature  
2005 Regular Session

Passed by the Senate April 24, 2005  
YEAS 47 NAYS 0

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**President of the Senate**

Passed by the House April 23, 2005  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5602** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5602**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senate Committee on Agriculture & Rural Economic Development  
(originally sponsored by Senators Rasmussen and Schoesler; by request  
of Department of Agriculture)

READ FIRST TIME 03/01/05.

1            AN ACT Relating to managing livestock nutrients; amending RCW  
2 90.64.813 and 70.95.315; adding new sections to chapter 90.64 RCW;  
3 adding a new section to chapter 42.17 RCW; adding a new section to  
4 chapter 70.95 RCW; creating a new section; and providing a contingent  
5 expiration date.

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

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 90.64 RCW  
8 to read as follows:

9            (1) The legislature finds that a livestock nutrient management  
10 program is essential to protecting the quality of the waters of the  
11 state and ensuring a healthy and productive livestock industry.

12            (2) The departments of agriculture and ecology shall examine their  
13 current statutory authorities and provide the legislature with  
14 recommendations for statutory changes to fully implement a livestock  
15 nutrient management program within the department of agriculture for  
16 concentrated animal feeding operations, animal feeding operations, and  
17 dairies, as authorized in RCW 90.48.260, 90.64.813, and 90.64.901. In  
18 developing recommended statutory changes, the departments shall consult  
19 with the livestock nutrient management program development and

1 oversight committee created in RCW 90.64.813. The recommendations must  
2 be submitted to the legislature by the departments of agriculture and  
3 ecology prior to applying to the environmental protection agency for  
4 delegated authority to administer the CAFO portion of the national  
5 pollutant discharge elimination system permit program under the federal  
6 clean water act.

7 (3) For purposes of this act, animal feeding operations (AFOs) and  
8 concentrated animal feeding operations (CAFOs) have the same meaning as  
9 defined in 40 C.F.R. 122.23.

10 (4) This section applies to all operations that meet the definition  
11 of an AFO. This section does not apply to true pasture and rangeland  
12 operations that do not meet the definition of AFO, however, such  
13 operations may have confinement areas that may qualify as an AFO.

14 **Sec. 2.** RCW 90.64.813 and 2003 c 325 s 2 are each amended to read  
15 as follows:

16 (1) A livestock nutrient management program development and  
17 oversight committee is created comprised of the following members(~~(~~  
18 ~~appointed as follows))~~):

19 (a) The director of the department of agriculture, or the  
20 director's designee, who shall serve as committee chair;

21 (b) The director of the department of ecology, or the director's  
22 designee;

23 (c) A representative of the United States environmental protection  
24 agency, appointed by the regional director of the agency unless the  
25 agency chooses not to be represented on the committee;

26 (d) One member from each of the two major caucuses of the house of  
27 representatives, appointed by the speaker of the house of  
28 representatives, and one member from each of the two major caucuses of  
29 the senate, appointed by the president of the senate;

30 (e) A representative of commercial shellfish growers, nominated by  
31 an organization representing these growers, appointed by the  
32 (~~governor~~) director;

33 ((~~e~~)) (f) A representative of an environmental interest  
34 organization with familiarity and expertise in water quality issues as  
35 nominated by a statewide environmental organization, appointed by the  
36 (~~governor~~) director;

1        ~~((f))~~ (g) A representative of tribal governments as nominated by  
2 an organization representing tribal governments(~~(, appointed by the~~  
3 ~~governor))~~;

4        ~~((g))~~ (h) A representative of Washington State University  
5 appointed by the dean of the college of agriculture and home economics;

6        ~~((h))~~ (i) A representative of the Washington association of  
7 conservation districts, appointed by the association's board of  
8 officers;

9        ~~((i))~~ (j) Three representatives of dairy producers nominated by  
10 a statewide organization representing dairy producers in the state,  
11 appointed by the ~~((governor))~~ director;

12        ~~((j))~~ (k) Two representatives of beef cattle producers nominated  
13 by a statewide organization representing beef cattle producers in the  
14 state, appointed by the ~~((governor))~~ director;

15        ~~((k))~~ (l) One representative of poultry producers nominated by a  
16 statewide organization representing poultry producers in the state,  
17 appointed by the ~~((governor))~~ director;

18        ~~((l))~~ (m) One representative of the commercial cattle feedlots  
19 nominated by a statewide organization representing commercial cattle  
20 feedlots in the state, appointed by the ~~((governor))~~ director; ~~((and))~~

21        ~~((m))~~ (n) A representative of any other segment of the livestock  
22 industry determined by the director of agriculture to be subject to  
23 federal rules regulating animal feeding or concentrated animal feeding  
24 operations;

25        (o) One representative of horse owners nominated by a statewide  
26 organization representing horse owners in the state, appointed by the  
27 director; and

28        (p) One representative of sheep producers nominated by a statewide  
29 organization representing sheep producers in the state, appointed by  
30 the director.

31        (2) The state department of agriculture shall provide staff for the  
32 committee. The department of agriculture may request staff assistance  
33 be assigned by the United States environmental protection agency to  
34 assist the director in staffing the committee.

35        (3) The committee shall establish a work plan that includes a list  
36 of tasks and a projected completion date for each task.

37        (4) The committee may establish a subcommittee for each of the  
38 major industry segments that is covered by the recently adopted federal

1 regulations that pertain to animal feeding operations and concentrated  
2 animal feeding operations. The subcommittee shall be composed of  
3 selected members of the full committee and additional representatives  
4 from that major segment of the livestock industry as determined by the  
5 director. The committee shall assign tasks to the subcommittees and  
6 shall establish dates for each subcommittee to report back to the full  
7 committee.

8 (5) The committee shall examine the recently adopted federal  
9 regulations that provide for the regulation of animal feeding  
10 operations and concentrated animal feeding operations and develop a  
11 program to be administered by the department of agriculture that meets  
12 the requirements and time frames contained in the federal rules.  
13 Elements that the committee shall evaluate include:

14 (a) A process for adopting standards and for developing plans for  
15 each operation that meet these standards;

16 (b) A process for revising current national pollution discharge  
17 elimination system permits currently held by livestock operations and  
18 to transition these permits into the new system; and

19 (c) In consultation with the director, a determination of what  
20 other work is needed and what other institutional relationships are  
21 needed or desirable. The committee shall consult with representatives  
22 of the statewide association of conservation districts regarding any  
23 functions or activities that are proposed to be provided through local  
24 conservation districts.

25 (6) The committee shall review and comment on proposals for grants  
26 from the livestock nutrient management account created in RCW  
27 90.64.150.

28 (7) The committee shall develop draft proposed legislation that  
29 includes:

30 (a) Statutory changes, including a timeline to achieve the phased-  
31 in levels of regulation under federal law, to comply with the minimum  
32 requirements under federal law and the minimum requirements under  
33 chapter 90.48 RCW. These changes must meet the requirements necessary  
34 to enable the department of agriculture and the department of ecology  
35 to pursue the United States environmental protection agency's approval  
36 of the transfer of the permitting program as it relates to the  
37 concentrated animal feeding operations from the department of ecology  
38 to the department of agriculture;

1 (b) Statutory changes necessitated by the transfer of functions  
2 under chapter 90.64 RCW from the department of ecology to the  
3 department of agriculture;

4 (c) Continued inspection of dairy operations at least once every  
5 two years;

6 (d) An outreach and education program to inform the various animal  
7 feeding operations and concentrated animal feeding operations of the  
8 program's elements; and

9 (e) Annual reporting to the legislature on the progress of the  
10 state strategy for implementing the animal feeding operation and  
11 concentrated animal feeding operation.

12 (8) The committee shall provide a report by December 1, 2003, to  
13 appropriate committees of the legislature that includes the results of  
14 the committee's evaluation under subsection (5) of this section and  
15 draft legislation to initiate the program.

16 (9) The committee shall evaluate simplified nutrient management  
17 planning tools and systematic practices that can be offered to those  
18 livestock operations not required to have permits or farm plans. The  
19 planning tools and systematic practices may include coordinated  
20 resource management and shall differentiate between types of  
21 operations, between stock restricted and open range areas, and between  
22 regional differences in average annual precipitation. The goal shall  
23 be to introduce these practical models through technical assistance,  
24 education, and outreach so that all livestock owners will have clear  
25 guidance on how to meet basic responsibilities to protect water  
26 quality. The committee shall report its recommendations on tools and  
27 service delivery options to appropriate committees of the legislature  
28 during the September 2005 assembly.

29 (10) With respect to the federal requirement that livestock  
30 nutrient management plans contain a component ensuring proper  
31 management of dead animals, the committee shall review issues  
32 concerning routine animal carcass disposal in Washington, including  
33 composting, rendering, burying, landfills, and incineration. The  
34 committee may appoint a subcommittee including appropriate technical  
35 staff from state agencies to undertake this task and make  
36 recommendations back to the full committee. At the legislative  
37 assembly in September 2005, the department of agriculture, the

1 department of ecology, the state board of health, and committee  
2 representatives shall present reports as follows to the appropriate  
3 legislative committees:

4 (a) The department of ecology shall report on the status of off-  
5 site animal composting options that meet the livestock industry's need  
6 for disposal alternatives while assuring consumer protection and equity  
7 with other composters;

8 (b) The department of agriculture shall report on the status of a  
9 comprehensive, clearly written guidance document for the livestock  
10 industry on alternatives currently available for routine disposal of  
11 animal carcasses. The guidance document shall include, at a minimum,  
12 the disposal alternatives of rendering, burying, landfills, and  
13 composting; and

14 (c) The state board of health shall report on the status of rule  
15 making that clarifies burial depth, location of burial sites in  
16 relation to drinking water wells, and incineration.

17 (11) This section expires ((June 30, 2006)) when the federal  
18 environmental protection agency delegates authority for the NPDES CAFO  
19 program to the department of agriculture. The department of  
20 agriculture shall provide notice to the legislature of the date of any  
21 such delegation of authority.

22 NEW SECTION. Sec. 3. (1) The department of ecology shall develop  
23 and maintain a standard protocol for water quality monitoring of the  
24 waters of the state within the vicinity of dairies and CAFOs. The  
25 protocol shall include sampling methods and procedures and identify the  
26 water quality constituents to be monitored.

27 (2) The department of ecology shall submit the initial protocol  
28 developed according to this section to the appropriate committees of  
29 the legislature by December 1, 2005.

30 NEW SECTION. Sec. 4. A new section is added to chapter 90.64 RCW  
31 to read as follows:

32 This section applies to dairies, AFOs, and CAFOs, not required to  
33 apply for a permit. Information in plans, records, and reports  
34 obtained by state and local agencies from livestock producers under  
35 this act regarding (1) number of animals; (2) volume of livestock  
36 nutrients generated; (3) number of acres covered by the plan or used

1 for land application of livestock nutrients; (4) livestock nutrients  
2 transferred to other persons; and (5) crop yields shall be disclosable  
3 in response to a request for public records under chapter 42.17 RCW  
4 only in ranges that provide meaningful information to the public while  
5 ensuring confidentiality of business information. The department of  
6 agriculture shall adopt rules to implement this section in consultation  
7 with affected state and local agencies.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW  
9 to read as follows:

10 The following information in plans, records, and reports obtained  
11 by state and local agencies from dairies, animal feeding operations,  
12 and concentrated animal feeding operations, not required to apply for  
13 a national pollutant discharge elimination system permit is disclosable  
14 only in ranges that provide meaningful information to the public while  
15 ensuring confidentiality of business information regarding: (1) Number  
16 of animals; (2) volume of livestock nutrients generated; (3) number of  
17 acres covered by the plan or used for land application of livestock  
18 nutrients; (4) livestock nutrients transferred to other persons; and  
19 (5) crop yields. The department of agriculture shall adopt rules to  
20 implement this section in consultation with affected state and local  
21 agencies.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95 RCW,  
23 to be codified after RCW 70.95.305, to read as follows:

24 (1) By July 1, 2005, the department of ecology and the department  
25 of agriculture, in consultation with the department of health, shall  
26 make available to livestock producers clearly written guidelines for  
27 the composting of bovine and equine carcasses for routine animal  
28 disposal.

29 (2) Composters of bovine and equine carcasses are exempt from the  
30 metals testing and permit requirements under the solid waste handling  
31 rules for compost that is distributed off-site if the following  
32 conditions are met:

33 (a) The carcasses to be composted are not known or suspected to be  
34 affected with a prion-protein disease such as bovine spongiform  
35 encephalopathy, a spore-forming disease such as anthrax or other  
36 diseases designated by the state veterinarian;



1 (b) The composter follows the written guidelines provided for in  
2 subsection (1) of this section;

3 (c) The composter does not accept for composting animal mortalities  
4 from other sources not directly affiliated with the composter's  
5 operation;

6 (d) The composter provides information to the end-user that  
7 includes the source of the material; the quality of the compost as to  
8 its nutrient content, pathogens, and stability; and the restrictions on  
9 use of the compost as stated in (f) of this subsection;

10 (e) The composter reports annually to the department the number of  
11 bovines and equines and the amounts of other material composted,  
12 including the composter's best estimate of the tonnage or yardage  
13 involved; and

14 (f) The end-user applies the compost only to agricultural lands  
15 that are not used for the production of root crops except as prescribed  
16 in the guidelines and ensures no compost comes into contact with the  
17 crops harvested from the lands where the compost is applied.

18 (3) If a compost production facility does not operate in compliance  
19 with the terms and conditions established for an exemption in this  
20 section, the facility shall be subject to the permitting requirements  
21 for solid waste handling under this chapter.

22 **Sec. 7.** RCW 70.95.315 and 1998 c 156 s 7 are each amended to read  
23 as follows:

24 The department may assess a civil penalty in an amount not to  
25 exceed one thousand dollars per day per violation to any person exempt  
26 from solid waste permitting in accordance with RCW 70.95.300 (~~(e)~~),  
27 70.95.305, or section 6 of this act who fails to comply with the terms  
28 and conditions of the exemption. Each such violation shall be a  
29 separate and distinct offense, and in the case of a continuing  
30 violation, each day's continuance shall be a separate and distinct  
31 violation.

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