

HOUSE BILL REPORT

ESSB 5424

As Passed House - Amended:

April 16, 1999

Title: An act relating to aquatic plant management.

Brief Description: Allowing the use of certain commercially approved herbicides for aquatic plant management.

Sponsors: Senate Committee on Environmental Quality & Water Resources (originally sponsored by Senators Winsley, Fraser, Honeyford, Hochstatter, Hale, McCaslin, West and Haugen).

Brief History:

Committee Activity:

Agriculture & Ecology: 4/1/99, 4/2/99 [DP];
Appropriations: 4/5/99 [DPA].

Floor Activity:

Passed House - Amended: 4/16/99, 65-30.

Brief Summary of Engrossed Substitute Bill

- Allows the use of certain commercially approved herbicides for aquatic plant management.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Koster, Republican Vice Chair; B. Chandler; Delvin; Fortunato; Grant; Reardon; Schoesler; Stensen; Sump and Wood.

Minority Report: Do not pass. Signed by 2 members: Representatives Cooper, Democratic Vice Chair and Anderson.

Staff: Bill Lynch (786-7092).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Jeff Olsen (786-7157).

Background:

The Department of Ecology authorizes the use of pesticides to control aquatic weeds based upon information contained in the 1992 Aquatic Plant Management Program Environmental Impact Statement (EIS). The EIS reviewed aquatic plant control methods available at the time and recommended conditions or prohibitions to be placed on pesticide use. Since 1992, the Environmental Protection Agency has approved aquatic plant pesticides for commercial use, but the state has not reviewed these products or reviewed new information concerning the pesticides evaluated in the 1992 EIS.

Summary of Bill:

The Department of Ecology is required to update the final supplemental environmental impact statement for the aquatic plant management program which was completed in 1992. The update must reflect new information on herbicides evaluated in 1992 as well as new commercially available herbicides. The department is required to maintain the information on herbicides so that it remains current, and evaluate new herbicides as they become commercially available.

A government entity that wishes to control a limited infestation of Eurasian water milfoil may use the pesticide 2,4-D to treat the infestation without obtaining a water quality permit from the Department of Ecology for use of herbicides and surfactants, if the milfoil infestation is either recently documented or remains after the application of other control measures, and the infestation is limited to 20 percent or less of the littoral zone of the lake.

Before applying 2,4-D for milfoil, the governmental entity must provide at least 21 days notice to the Departments of Ecology, Fish and Wildlife, Agriculture, and Health, as well as all the lake residents. The governmental entity must also post notices of intent to apply 2,4-D at all public access points and place informational buoys around the treatment area.

The Department of Fish and Wildlife may impose timing restrictions on the use of 2,4-D to protect salmon and other fish and wildlife. The Department of Ecology may prohibit the use of 2,4-D if it finds the product contains dioxin in excess of the standard allowed by the United States Environmental Protection Agency. Any pesticide application must be made according to all label requirements for the product.

Funds from the freshwater aquatic weeds account may be used for 2,4-D application to control milfoil. Government entities who use 2,4-D to treat milfoil must consider developing long-term control strategies for eradication and control of milfoil. "Governmental entities" are defined as cities, counties, state agencies, tribes, special purpose districts, and county weed boards.

The experimental use of hydrothol 191 is authorized the control algae for the 1999 treatment season in lakes managed under the jurisdiction of a superior court. If this herbicide is ineffective, the Department of Ecology may authorize the use of copper sulfate after consulting with state, federal, and local agencies, and interested parties. The Washington Institute for Public Policy must contract for a study on the effectiveness of hydrothol 191.

Appropriation: Thirty-five thousand dollars from the state general fund to the Washington Institute for Public Policy to contract for a study on hydrothol 191.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Testimony For: (Agriculture & Ecology) Aquatic weeds are a major problem. They make many areas unusable for swimming and boating, and use up the oxygen in water at the detriment of fish. The Joint Study on Lake Health recommended updating the 1992 EIS. The other 49 states use herbicides not allowed in Washington. A pilot program which used aquatic 2,4-D to control weeds was effective without affecting water quality or human health. Alternatives to 2, 4-D are much more expensive and much less effective. Rare aquatic plants in Mason Lake are being choked out by milfoil.

(Appropriations) This is similar to a pilot project that used 2,4-D last year that was very successful. It is one of the least expensive ways of combating Eurasian milfoil. This would allow the use of aquatic 2,4-D, which is already approved in other states and by EPA. Funding is necessary to approve aquatic 2,4-D for use in Washington.

Testimony Against: (Agriculture & Ecology) The bill should be expanded to allow herbicides to be used to control nuisance weeds. Algae needs to be treated in conjunction

with other weeds. Until the EIS is updated, diquat, endothol and copper based algicides should be authorized to control aquatic weeds.

(Appropriations) None.

Testified: (Agriculture & Ecology) Senator Shirley Winsley, prime sponsor; Senator Bob Morton; Dan Robinson, Lake Limerick Country Club; Jim Richardson, Loon Lake Association; April Cassell, Mason Lake resident; Dick Wallace, Department of Ecology; Carl Sanders, Department of Fish and Wildlife; and Lisa Lantz, Washington State Weed Board.

(With concerns) Tom Lowry, Lake Steilacoom resident; Paul Noges, Lake Steilicoom Improvement Club; and Herb Dayton, Lake Steilacoom resident.

(Appropriations) Senator Morton, prime sponsor.