

# HOUSE BILL REPORT

## HB 2744

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to protecting lake water quality by reducing phosphorus from lawn fertilizers.

**Brief Description:** Protecting lake water quality by reducing phosphorus from lawn fertilizers.

**Sponsors:** Representatives Ormsby, Wallace, Rolfes, Nelson, Simpson, Morrell, Hasegawa, Morris and Chase.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 1/29/10, 2/2/10 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits the application of a fertilizer containing phosphorus to turf after January 1, 2012, with exceptions.
- Authorizes the Department of Ecology to issue a notice of corrective action for violations.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Blake, Chair; Ormsby, Vice Chair; Smith, Assistant Ranking Minority Member; Jacks, Liias, McCoy, Nelson, Rolfes and Van De Wege.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Chandler, Ranking Minority Member; Kretz, Pearson and Warnick.

**Staff:** Jaclyn Ford (786-7339).

**Background:**

Phosphorous is a naturally occurring element that stimulates plant growth. When introduced into freshwater, phosphorous promotes growth of weeds and algae and can degrade water

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quality.

The sale of laundry detergent that contains 0.5 percent or more phosphorous by weight is prohibited. Since July 1, 2008, dishwashing detergent that contains 0.5 percent or more phosphorus by weight in counties located east of the crest of the Cascade Mountains where the population is less than 600,000 but greater than 390,000 is prohibited. Beginning July 1, 2010, the restriction on the sale of dishwashing detergent that contains more than 0.5 percent or more phosphorous by weight is effective statewide.

The sale and distribution of detergents for commercial and industrial uses are exempt from the phosphorus limitation.

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### **Summary of Substitute Bill:**

After January 1, 2012, a person may not apply a fertilizer containing phosphorus to turf. Exceptions include:

- applying a solid fertilizer containing less than 0.67 percent phosphate by weight or a liquid fertilizer applied at a rate not greater than 0.3 pounds of phosphate per 1,000 square feet of turf;
- when test results or other certifications indicate that the level of available phosphorus in the soils is insufficient to support healthy turf growth. The application rate will be set at the agronomic rate, as determined by the Washington State Department of Agriculture (WSDA), that is needed to achieve appropriate phosphorus levels within the soil to support healthy turf growth;
- new lawns during the first growing season;
- application of turf fertilizer for agricultural uses; and
- application of turf fertilizer for golf courses.

A person may not apply a fertilizer to an impervious surface. If fertilizer is released on an impervious surface, it must be immediately contained and either legally applied to turf or returned to the original or other appropriate container.

The Department of Ecology (DOE) may issue a notice of corrective action if a person is in violation of these provisions. A city or county may adopt an ordinance providing for enforcement of these provisions, as a city or county adopting an ordinance has concurrent jurisdiction.

The DOE, in consultation with Washington State University Extension Service, fertilizer industry representatives, lakes health organizations, and other interested parties, may produce consumer information on application restrictions and on recommended best practices for turf fertilizer and other residential landscaping uses. This information will be distributed at retail points of sale of fertilizer that contains phosphorus and is used on turf.

Definitions for "fertilizer," "impervious surface," and "turf" are added.

### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- requires the application rate to be set at the agronomic rate, as determined by the WSDA, that is needed to achieve appropriate phosphorus levels within the soil to support healthy turf growth; and
- exempts materials manufactured from waste manure.

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**Appropriation:** None.

**Fiscal Note:** Available. Requested on the substitute bill on February 2, 2010.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Phosphorous is harmful to water-bodies and wildlife. If phosphorous is decreased, the harm to water-bodies is decreased. Local governments have adopted similar ordinances. There is a very little fiscal note. This is an effort to reduce excess phosphorous in the water. This is something we can do to improve our water quality. Several of Washington's lakes have toxic algae. By decreasing phosphorous we decrease the negative health effects. The industry will come-around, just like they did on previous legislation banning phosphorous in detergents. Our waterways can be healthier and individuals will still have the necessary products to make their turf healthy. Our aquatic environment is facing several threats. This will help reduce phosphorous that degrades aquatic resources. This will help reduce phosphorous loading in Spokane. This is a common-sense solution to protect our waterways.

(With concerns) There should be clarification on who decides best practices.

(Neutral) There are portions of this bill that make a lot of sense. There are studies that show that there is no phosphorous found in runoff from fertilized turf. Most phosphorous found in water is bound to the soil. Under-fertilized turf leads to further erosion. It does not make sense to have different calculations for liquid vs. solid fertilizer. Natural fertilizers contain more than .67 percent phosphorous by weight.

(Opposed) There may be an unintended consequence on natural base fertilizers. Natural base fertilizers have 1 to 2 percent phosphorous. Enforcement may be disproportionately focused on industry, not homeowners, even though industry uses less fertilizers than homeowners. This is a regulatory burden. There should be a more voluntary approach, and not be mandated. Industry works with the WSDA, and having small business also work with the DOE would be burdensome. It would be difficult to know which counties have enforcement and which do not. This will be a burden on small business. Each lake is unique and some lakes do not have phosphorous problems. Some lakes may have natural phosphorous or phosphorous coming from other sources. The problem should be identified before prescriptive measures are taken. Soil runs off, not phosphorous. Phosphorous only runs off impervious surfaces. The state with similar legislation does not have data that shows

reductions in phosphorous. Low phosphorous fertilizers are not found in all locations. This bill would ban organic fertilizer.

**Persons Testifying:** (In support) Representative Ormsby, prime sponsor; Kristen Swenddal, Department of Natural Resources; Joe Daniels, Washington Lakes Protection Association; Beth Cullen, Washington Lakes Protection Association and King County; Melissa Gombosky, Inland Empire Paper Company; Jonathan Froage, Seattle Public Utilities; and Seth Ballhorn, Sierra Club.

(With concerns) Jerry Smedes, Emerald Services Inc.; and Don Seeberger, Department of Ecology.

(Neutral) Eric Miltner, Washington State University.

(Opposed) Ray Rudie, TruGreen; Rick Longnecker, Buds and Blades, and the Washington Association of Landscape Professionals; and Heather Hansen, Washington Friends of Farms and Forests.

**Persons Signed In To Testify But Not Testifying:** None.