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SENATE BILL 5749

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Schoesler, Rasmussen, Spanel, Morton, Shin and Haugen

Read first time 01/30/2007. Referred to Committee on Agriculture & Rural Economic Development.

1            AN ACT Relating to *Brassica* seed production; adding a new chapter  
2 to Title 15 RCW; repealing RCW 15.65.055 and 15.66.025; and declaring  
3 an emergency.

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

5            NEW SECTION.    **Sec. 1.** LEGISLATIVE FINDINGS AND PURPOSE.    The  
6 legislature finds that the growing, production, or formation of seed  
7 from plants of the genus *Brassica* for the purpose of producing seed,  
8 oil, biofuel or associated byproducts, commercial vegetables, forage,  
9 or cover crops is in the interest of the public welfare.    The  
10 legislature finds that species, hybrids, varieties, and variations of  
11 plants of the genus *Brassica* have potential to form genetic crosses,  
12 particularly when they are grown in geographic proximity, and will, if  
13 not properly regulated, result in significant loss of quality, purity,  
14 and value in the seed produced.

15            The legislature finds that production of biofuel using *Brassica*  
16 seed crops, generally known as canola or rapeseed, can help citizens  
17 and businesses conserve energy and reduce the use of petroleum-based  
18 fuels, improve air and water quality, and create new industries and  
19 jobs for Washington citizens.    The legislature also finds that

1 Washington state offers conditions uniquely suited to the production of  
2 high quality, high value *Brassica* vegetable seed, and that the  
3 vegetable seed industry is a significant contributor to the diversity  
4 and economic viability of the agricultural community.

5 The purpose of this act is to provide for the orderly production of  
6 potentially incompatible varieties of *Brassica* seed crops.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
8 section apply throughout this chapter unless the context clearly  
9 requires otherwise.

10 (1) "*Brassica*" means any plants in the genus *Brassica*.

11 (2) "*Brassica* seed crop" means any commercial production of any  
12 species, hybrid, or variety of the genus *Brassica* that results in  
13 pollen or seed formation. *Brassica* seed crop includes, but is not  
14 limited to, *Brassica* seeds grown for planting, and species generally  
15 known as rapeseed or canola, including *Brassica napus*, *Brassica rapa*,  
16 and *Brassica juncea*, grown for oil or biofuel and associated  
17 byproducts. For purposes of this chapter, forage and cover crops from  
18 the genus *Brassica* are considered *Brassica* seed crops. Plants from the  
19 genus *Brassica* grown as vegetables for human or animal consumption such  
20 as cabbage, broccoli, rutabaga, and kohlrabi are not *Brassica* seed  
21 crops as long as they are not allowed to produce pollen or seed.

22 (3) "Department" means the state department of agriculture.

23 (4) "Director" means the director of the department or the  
24 director's authorized representative.

25 (5) "Grower" means a person who grows a *Brassica* seed crop within  
26 a *Brassica* seed production district or, for purposes of section 3 of  
27 this act, within a proposed *Brassica* seed production district.

28 (6) "Processor" means a person who commercially uses, sells, or  
29 processes a *Brassica* seed crop grown within a *Brassica* seed production  
30 district or, for purposes of section 3 of this act, within a proposed  
31 *Brassica* seed production district.

32 (7) "Volunteer and weed *Brassica* plants" means plants of the genus  
33 *Brassica* that arise from accidental or unintentional scattering or  
34 occurrence of seed.

35 NEW SECTION. **Sec. 3.** BRASSICA SEED PRODUCTION DISTRICTS--GROWER'S  
36 PETITION--RULES. Any grower or processor of a *Brassica* seed crop may

1 submit a petition to the director requesting establishment of a  
2 *Brassica* seed production district. The petition must include proposed  
3 geographic boundaries of the district and the proposed types of  
4 regulations for designated *Brassica* seed crop species within the  
5 district. The petition must contain the signatures of at least ten  
6 growers or processors of affected *Brassica* seed crops grown within the  
7 boundaries of the proposed *Brassica* seed production district. If there  
8 are fewer than ten growers or processors of affected *Brassica* seed  
9 crops grown within the boundaries of the proposed district, then the  
10 applicant may submit a list of names and contact information for all  
11 *Brassica* seed crop growers and processors within the proposed district  
12 and a petition signed by at least fifty percent of these persons. In  
13 response to the petition, the director may adopt rules to establish  
14 *Brassica* seed production districts.

15 NEW SECTION. **Sec. 4. BRASSICA PRODUCTION AGREEMENTS.** (1) Any  
16 person who wishes to conduct an activity otherwise prohibited within a  
17 *Brassica* seed production district must first enter into a *Brassica*  
18 production agreement with the director. Each *Brassica* production  
19 agreement shall be developed by the applicant and the director in  
20 consultation with an advisory committee comprised of at least three  
21 individuals appointed by the director, none of whom shall have a  
22 financial interest in the request for agreement or its outcome and at  
23 least one of whom shall be a grower in or processor of *Brassica* seed  
24 crops grown within the *Brassica* seed production district. The director  
25 shall not enter into any *Brassica* production agreement unless the  
26 director, in the exercise of his or her discretion, is satisfied that  
27 the agreement contains terms and conditions that are necessary and  
28 sufficient to mitigate reasonably possible risks to the economic  
29 well-being of growers within the *Brassica* seed production district from  
30 the proposed activity.

31 (2) The applicant or any grower or processor of a *Brassica* seed  
32 crop grown within the *Brassica* seed production district that would be  
33 affected by the *Brassica* production agreement may appeal, under RCW  
34 34.05.570(4), the director's decision whether or not to enter into a  
35 *Brassica* production agreement. Any such appeal must be filed in the  
36 superior court of Thurston county or the county in which the activity  
37 to be allowed under the *Brassica* production agreement would occur.

1        NEW SECTION.    **Sec. 5.**    RULES.    The director may adopt rules  
2 necessary to carry out the purpose and provisions of this chapter  
3 concerning, but not limited to:

4        (1) *Brassica* seed production districts;

5        (2) Notification of a designated central clearinghouse for growers  
6 to report their intention to plant a *Brassica* seed crop within a  
7 *Brassica* seed production district;

8        (3) Isolation distances between *Brassica* seed crops within a  
9 *Brassica* seed production district;

10       (4) Exclusion of designated *Brassica* seed crops within a *Brassica*  
11 seed production district, except under terms of a *Brassica* production  
12 agreement;

13       (5) Control of volunteer and weed *Brassica* plants within a *Brassica*  
14 seed production district; and

15       (6) *Brassica* production agreements.

16       NEW SECTION.    **Sec. 6.**    VIOLATION OR THREATENED VIOLATION OF  
17 CHAPTER--ACTION TO ENJOIN.    The director or any grower or processor of  
18 a *Brassica* seed crop grown within a *Brassica* seed production district  
19 may bring an action to enjoin the violation or threatened violation of  
20 any provision of this chapter or its rules, or any *Brassica* production  
21 agreement entered into by an applicant and the director, in the  
22 superior court of Thurston county or the county in which the violation  
23 or threatened violation occurs or is about to occur.

24       NEW SECTION.    **Sec. 7.**    APPLICATION OF CHAPTER 34.05 RCW.    Chapter  
25 34.05 RCW governs the rights, remedies, and procedures respecting the  
26 administration of this chapter, including rule making.

27       NEW SECTION.    **Sec. 8.**    Captions used in this act are not any part  
28 of the law.

29       NEW SECTION.    **Sec. 9.**    The following acts or parts of acts are each  
30 repealed:

31       (1) RCW 15.65.055 (Regulatory authority on the production of  
32 rapeseed by variety and location) and 1986 c 203 s 21; and

33       (2) RCW 15.66.025 (Regulatory authority on the production of  
34 rapeseed by variety and location) and 1986 c 203 s 22.

1        NEW SECTION.   **Sec. 10.**   Sections 1 through 8 of this act constitute  
2   a new chapter in Title 15 RCW.

3        NEW SECTION.   **Sec. 11.**   This act is necessary for the immediate  
4   preservation of the public peace, health, or safety, or support of the  
5   state government and its existing public institutions, and takes effect  
6   immediately.

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