

# SENATE BILL REPORT

## SB 5817

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As Reported by Senate Committee On:  
Agriculture & Rural Economic Development, February 24, 2009

**Title:** An act relating to defining commercial agricultural purposes to include current farming practices and activities related to the raising, harvesting, feeding, breeding, managing, selling, care, or training of a farm product.

**Brief Description:** Defining commercial agricultural purposes to include current farming practices and activities related to the raising, harvesting, feeding, breeding, managing, selling, care, or training of a farm product.

**Sponsors:** Senators Becker, Schoesler, Morton, Brandland, Holmquist, Stevens, Swecker, McCaslin, Carrell, Delvin, Honeyford, King, Kastama, Hatfield, Parlette, Hewitt and Roach.

**Brief History:**

**Committee Activity:** Agriculture & Rural Economic Development: 2/10/09, 2/24/09 [DPS-WM].

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5817 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Jacobsen, Morton and Shin.

**Staff:** Bob Lee (786-7404)

**Background:** In November 1968 voters approved Amendment 53 to the State Constitution that allowed the Legislature to establish current use valuation for property tax purposes of farm and agricultural lands, timberlands and other open space lands which are used for recreation or for enjoyment of their scenic or natural beauty. The Open Space Taxation Act, enacted in 1970, deals primarily with farm and agricultural lands, and open space lands, and the chapter that deals primarily with timber and forest lands was enacted in 1971.

To qualify as "farm and agricultural land," there are separate criteria for three parcel categories:

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- any contiguous parcels totaling 20 or more acres that are devoted primarily to the production of livestock or agricultural commodities for commercial production; enrolled in the federal conservation reserve program; or similar commercial activity as established by rule;
- any parcel between five and 20 acres devoted primarily to agricultural use which has produced gross income from agricultural use of at least \$200 per acre in three of five years preceding the date of application;
- any parcel less than five acres devoted primarily to agricultural uses which has produced a gross income of at least \$1,500 in three of the five years preceding the date of application.

Enrollment in the program affects the valuation of the land but the valuation of the buildings does not change.

If the use of the land is converted to a non-qualifying use, the amount of the reduction in the property taxes saved for the seven prior years plus interest is required to be paid. The interest rate is 12 percent per annum. If a two-year prior notice of change in use is not provided to the county assessor, an additional penalty of 20 percent is levied. There are provisions that allow a change from one classification to another without payment of additional tax.

To qualify as "open space land," there are specific criteria and a process for designation. Included in this definition is "farm and agricultural conservation land" which are lands that once qualified as "farm and agricultural lands" but no longer meet the criteria, but have not been irrevocably devoted to non-agricultural use.

There are separate provisions in the property tax statutes that adjust the levy rates based on changes in total property tax valuations within the taxing jurisdiction. If total valuations increase, the levy rate decreases and vice versa.

The Department of Revenue has adopted rules that provide guidance to county assessors in administering the program. Following public hearings focused primarily on eligibility of horse boarding operations, the department adopted an emergency rule on December 31, 2008, that modifies the definition of "commercial agricultural purposes."

**Summary of Bill (Recommended Substitute):** There is inserted a definition of "commercial agricultural purposes" into the statute. It includes:

- the production of crops and livestock;
- equestrian-related activities for which a charge is made that otherwise meet the income requirements applicable to the size of the land parcel, and includes: stabling, training, riding-conducting clinics, providing schools conducting shows, and grazing for feed; and
- planting of perennials with an expectation that an agricultural product will be harvested within seven years if the land is cultivated and there has been an investment of greater than \$500 per acre.

Provided is an exemption from the requirement to recapture seven years of reduced taxes, interest, and penalty if it is discovered that land was classified in error through no fault of the owner. Fault is defined as a knowingly false or misleading statement, or other act or

omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

**EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute):** The new definition of commercial agricultural purposes in the original bill was clarified and includes the production of crops and livestock, equestrian-related activities, and planting of perennials with an expectation that an agricultural product will be harvested within seven years.

The retroactive provision was replaced with an exemption from the requirement to recapture seven years of reduced taxes, interest, and penalty if it is discovered that land was classified in error through no fault of the owner. Fault is defined as a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

**Appropriation:** None.

**Fiscal Note:** Requested on February 3, 2009.

**Committee/Commission/Task Force Created:** None.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Original Bill:** PRO: Washington State's horse industry helps create and retain jobs and adds revenue to counties and the state. There are 250,000 horses in the state, which is about the same number as dairy cows. Most are located in western Washington. The concern is that horse facilities that provide boarding and other services have been in the program for 30 plus years, but then were told they no longer qualify, and thus have to pay seven years back taxes, interest, and a 20 percent penalty. Many of the horse boarding facilities are small and found near populated areas within easy driving distance from urban horse owners. The property taxes would suddenly skyrocket and cause a number of these facilities to close and the land to be sold for development. People think they got relief from the Department of Revenue, but many don't realize they are still in trouble.

The Growth Management Act is to encourage retention of open spaces and horse facilities are open space. Horse farms have the characteristics of other farms and provide an important commercial activity. The Department of Revenue's rule doesn't help on small parcels. The open space category with the public benefit rating system still creates too high of a tax burden because the surrounding land has such a high value.

CON: Role of horses has changed in agriculture. To be eligible for current use valuation for farm and agricultural land requires a commercial agricultural use. The bill tries to expand eligibility to a service such as horse boarding or training. The bill came up because of issues in one county but the concern has spread across the state. Assessors don't want to see a tax shift. The Department of Revenue's advisory that allows income from grazing to count is

OK. The open space category with public benefit rating system was created for these types of operations and provides some tax relief.

**Persons Testifying:** PRO: Tom Pasma, American Quarter Horse Association; Betty Lou Kapela, Lisa Fite, Dan Kapela, Save our Farms; Dan Wood, Farm Bureau; Scott Dahlman, Washington State Grange; Jim Halstrom, William Hutchinson, citizens.

CON: Robert Carlton, Washington Association of County Officials.