S-0835.1

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**SENATE BILL 5431**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Warnick, Takko, Brown, Hawkins, Liias, Schoesler, Honeyford, and Fortunato

AN ACT Relating to protection of composting from nuisance lawsuits; and amending RCW 7.48.310; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Composting benefits Washington counties, cities, businesses, and residents by diverting tons of organic waste going to landfills, reducing solid waste costs, and lowering carbon emissions. Composting also yields a product integral to agricultural activities that can refurbish degraded farmlands and increase crop yields.

(b) As the state population increases and landfills and solid waste disposal become costlier, more communities are pursuing options to divert organic waste and reduce landfill requirements. Organic waste collection programs and facilities are critical to that effort, while also providing a valuable commodity to farmlands. However, nuisance lawsuits challenge the ability of these facilities to serve communities most in need.

(2) It is the legislature's intent to confirm that composting activities are recognized as agricultural activities and protected from nuisance lawsuits.

**Sec.**  RCW 7.48.310 and 2009 c 200 s 3 are each amended to read as follows:

For the purposes of RCW 7.48.305 only:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; keeping of bees for production of agricultural or apicultural products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another, including a change in the type of plant-related farm product being produced. The term includes use of new practices and equipment consistent with technological development within the agricultural industry.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other farm products.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, compost, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries and apiary products, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

(5) "Forest practice" means any activity conducted on or directly pertaining to forestland, as that term is defined in RCW 76.09.020, and relating to growing, harvesting, or processing timber. The term "forest practices" includes, but is not limited to, road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of diseases and insects, salvage of trees, brush control, and owning land where trees may passively grow until one of the preceding activities is deemed timely by the owner.

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