

CERTIFICATION OF ENROLLMENT  
**SUBSTITUTE HOUSE BILL 1954**

Chapter 317, Laws of 1991  
(partial veto)

52nd Legislature  
1991 Regular Session

AGRICULTURAL NUISANCES

EFFECTIVE DATE: 7/28/91

Passed by the House March 20, 1991  
Yeas 97 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Passed by the Senate April 9, 1991  
Yeas 38 Nays 9

JOEL PRITCHARD  
**President of the Senate**

Approved May 21, 1991, with  
the exception of section 1,  
which is vetoed.

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1954** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

May 21, 1991 - 10:25 a.m.

Secretary of State  
State of Washington



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**SUBSTITUTE HOUSE BILL 1954**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1991 Regular Session

**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Nealey, McLean, R. Johnson, Chandler, Kremen, D. Sommers, Ballard, Roland, Bowman, Grant, Inslee, Rasmussen and Sheldon).

Read first time March 1, 1991.

1            AN ACT Relating to agricultural nuisances; and amending RCW  
2    7.48.305 and 7.48.310.

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

4            *\*Sec. 1. RCW 7.48.305 and 1979 c 122 s 2 are each amended to read*  
6    *as follows:*

7            *Notwithstanding any other provision of this chapter, agricultural*  
8    *activities conducted on farmland, if consistent with good agricultural*  
9    *practices and established prior to surrounding nonagricultural*  
10   *activities, are presumed to be reasonable and ((do)) shall not be found*  
11   *to constitute a nuisance unless the activity has a substantial adverse*  
12   *effect on the public health and safety.*

13           *If that agricultural activity is undertaken in conformity with*  
14   *federal, state, and local laws and regulations, it is presumed to be*  
15   *good agricultural practice and not adversely affecting the public*

1 health and safety, and as such shall not be restricted as to the time  
2 during which it may be conducted.

3 Nothing in this section shall affect or impair any right to sue for  
4 damages.

5 \*Sec. 1 was vetoed, see message at end of chapter.

6 **Sec. 2.** RCW 7.48.310 and 1979 c 122 s 3 are each amended to read  
7 as follows:

8 As used in RCW 7.48.305:

9 (1) "Agricultural activity" means a condition or activity which  
10 occurs on a farm in connection with the commercial production of farm  
11 products and includes, but is not limited to, ((the growing or raising  
12 of horticultural and viticultural crops, berries, poultry, livestock,  
13 grain, mint, hay, and dairy products)) marketed produce at roadside  
14 stands or farm markets; noise; odors; dust; fumes; operation of  
15 machinery and irrigation pumps; movement, including, but not limited  
16 to, use of current county road ditches, streams, rivers, canals, and  
17 drains, and use of water for agricultural activities; ground and aerial  
18 application of seed, fertilizers, conditioners, and plant protection  
19 products; employment and use of labor; roadway movement of equipment  
20 and livestock; protection from damage by wildlife; prevention of  
21 trespass; construction and maintenance of buildings, fences, roads,  
22 bridges, ponds, drains, waterways, and similar features and maintenance  
23 of streambanks and watercourses; and conversion from one agricultural  
24 activity to another.

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

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

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

Passed the House March 20, 1991.

Passed the Senate April 9, 1991.

Approved by the Governor May 21, 1991, with the exception of  
certain items which were vetoed.

Filed in Office of Secretary of State May 21, 1991.

1       Note: Governor's explanation of partial veto is as follows:

2       "I am returning herewith, without my approval as to section 1,  
3 Substitute House Bill No. 1954 entitled:

4       "AN ACT Relating to agricultural nuisances."

5       This bill expands the list of agricultural activities which are  
6 included within the exemption to statutory nuisance provisions.  
7 Because of its importance as a message, I am going to sign section 2 of  
8 this legislation. I would hope that the agricultural community becomes  
9 more involved in advocating for strong growth management regulation.  
10 The problems addressed by this legislation could better be addressed by  
11 controlling growth and preserving agricultural lands for agricultural  
12 purposes. Limiting nuisance litigation does not prevent the intrusion  
13 of urban uses into prime agricultural areas. The conflicts will only  
14 continue to escalate.

15       However, I have vetoed section 1 primarily because of the ambiguity  
16 that it creates regarding other important regulatory programs. As  
17 originally drafted, the bill indicated that reasonable agricultural  
18 activities could not be restricted as to "time of day." As the bill  
19 passed, it does not allow restrictions as to "time." This could mean  
20 time of day or it could mean a season. Although this section was  
21 intended to address local noise ordinances, there are other regulatory  
22 programs that occasionally restrict agricultural activities based on  
23 seasonal criteria. For example, some activities may be limited during  
24 specific months to protect juvenile salmon. To address concerns raised  
25 by this ambiguity, I have vetoed section 1.

26       With the exception of section 1, Substitute House Bill No. 1954 is  
27 approved."