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ENGROSSED HOUSE BILL 1055

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Padden, Fuhrman and Sheldon

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1 AN ACT Relating to exempting docks of less than seven hundred  
2 square feet from the definition of substantial development under the  
3 shorelines management act; and amending RCW 90.58.030.

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

5 **Sec. 1.** RCW 90.58.030 and 1987 c 474 s 1 are each amended to read  
6 as follows:

7 As used in this chapter, unless the context otherwise requires, the  
8 following definitions and concepts apply:

9 (1) Administration:

10 (a) "Department" means the department of ecology;

11 (b) "Director" means the director of the department of ecology;

12 (c) "Local government" means any county, incorporated city, or town  
13 which contains within its boundaries any lands or waters subject to  
14 this chapter;

15 (d) "Person" means an individual, partnership, corporation,  
16 association, organization, cooperative, public or municipal  
17 corporation, or agency of the state or local governmental unit however  
18 designated;

1 (e) "Hearing board" means the shoreline hearings board established  
2 by this chapter.

3 (2) Geographical:

4 (a) "Extreme low tide" means the lowest line on the land reached by  
5 a receding tide;

6 (b) "Ordinary high water mark" on all lakes, streams, and tidal  
7 water is that mark that will be found by examining the bed and banks  
8 and ascertaining where the presence and action of waters are so common  
9 and usual, and so long continued in all ordinary years, as to mark upon  
10 the soil a character distinct from that of the abutting upland, in  
11 respect to vegetation as that condition exists on June 1, 1971, as it  
12 may naturally change thereafter, or as it may change thereafter in  
13 accordance with permits issued by a local government or the department:  
14 PROVIDED, That in any area where the ordinary high water mark cannot be  
15 found, the ordinary high water mark adjoining salt water shall be the  
16 line of mean higher high tide and the ordinary high water mark  
17 adjoining fresh water shall be the line of mean high water;

18 (c) "Shorelines of the state" are the total of all "shorelines" and  
19 "shorelines of state-wide significance" within the state;

20 (d) "Shorelines" means all of the water areas of the state,  
21 including reservoirs, and their associated wetlands, together with the  
22 lands underlying them; except (i) shorelines of state-wide  
23 significance; (ii) shorelines on segments of streams upstream of a  
24 point where the mean annual flow is twenty cubic feet per second or  
25 less and the wetlands associated with such upstream segments; and (iii)  
26 shorelines on lakes less than twenty acres in size and wetlands  
27 associated with such small lakes;

28 (e) "Shorelines of state-wide significance" means the following  
29 shorelines of the state:

30 (i) The area between the ordinary high water mark and the western  
31 boundary of the state from Cape Disappointment on the south to Cape  
32 Flattery on the north, including harbors, bays, estuaries, and inlets;

33 (ii) Those areas of Puget Sound and adjacent salt waters and the  
34 Strait of Juan de Fuca between the ordinary high water mark and the  
35 line of extreme low tide as follows:

36 (A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

37 (B) Birch Bay--from Point Whitehorn to Birch Point,

38 (C) Hood Canal--from Tala Point to Foulweather Bluff,

1 (D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point,  
2 and

3 (E) Padilla Bay--from March Point to William Point;

4 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and  
5 adjacent salt waters north to the Canadian line and lying seaward from  
6 the line of extreme low tide;

7 (iv) Those lakes, whether natural, artificial, or a combination  
8 thereof, with a surface acreage of one thousand acres or more measured  
9 at the ordinary high water mark;

10 (v) Those natural rivers or segments thereof as follows:

11 (A) Any west of the crest of the Cascade range downstream of a  
12 point where the mean annual flow is measured at one thousand cubic feet  
13 per second or more,

14 (B) Any east of the crest of the Cascade range downstream of a  
15 point where the annual flow is measured at two hundred cubic feet per  
16 second or more, or those portions of rivers east of the crest of the  
17 Cascade range downstream from the first three hundred square miles of  
18 drainage area, whichever is longer;

19 (vi) Those wetlands associated with (i), (ii), (iv), and (v) of  
20 this subsection (2)(e);

21 (f) "Wetlands" or "wetland areas" means those lands extending  
22 landward for two hundred feet in all directions as measured on a  
23 horizontal plane from the ordinary high water mark; floodways and  
24 contiguous floodplain areas landward two hundred feet from such  
25 floodways; and all marshes, bogs, swamps, and river deltas associated  
26 with the streams, lakes, and tidal waters which are subject to the  
27 provisions of this chapter; the same to be designated as to location by  
28 the department of ecology: PROVIDED, That any county or city may  
29 determine that portion of a one-hundred-year-flood plain to be included  
30 in its master program as long as such portion includes, as a minimum,  
31 the floodway and the adjacent land extending landward two hundred feet  
32 therefrom;

33 (g) "Floodway" means those portions of the area of a river valley  
34 lying streamward from the outer limits of a watercourse upon which  
35 flood waters are carried during periods of flooding that occur with  
36 reasonable regularity, although not necessarily annually, said floodway  
37 being identified, under normal condition, by changes in surface soil  
38 conditions or changes in types or quality of vegetative ground cover  
39 condition. The floodway shall not include those lands that can

1 reasonably be expected to be protected from flood waters by flood  
2 control devices maintained by or maintained under license from the  
3 federal government, the state, or a political subdivision of the state.

4 (3) Procedural terms:

5 (a) "Guidelines" means those standards adopted to implement the  
6 policy of this chapter for regulation of use of the shorelines of the  
7 state prior to adoption of master programs. Such standards shall also  
8 provide criteria to local governments and the department in developing  
9 master programs;

10 (b) "Master program" shall mean the comprehensive use plan for a  
11 described area, and the use regulations together with maps, diagrams,  
12 charts, or other descriptive material and text, a statement of desired  
13 goals, and standards developed in accordance with the policies  
14 enunciated in RCW 90.58.020;

15 (c) "State master program" is the cumulative total of all master  
16 programs approved or adopted by the department of ecology;

17 (d) "Development" means a use consisting of the construction or  
18 exterior alteration of structures; dredging; drilling; dumping;  
19 filling; removal of any sand, gravel, or minerals; bulkheading; driving  
20 of piling; placing of obstructions; or any project of a permanent or  
21 temporary nature which interferes with the normal public use of the  
22 surface of the waters overlying lands subject to this chapter at any  
23 state of water level;

24 (e) "Substantial development" shall mean any development of which  
25 the total cost or fair market value exceeds two thousand five hundred  
26 dollars, or any development which materially interferes with the normal  
27 public use of the water or shorelines of the state; except that the  
28 following shall not be considered substantial developments for the  
29 purpose of this chapter:

30 (i) Normal maintenance or repair of existing structures or  
31 developments, including damage by accident, fire, or elements;

32 (ii) Construction of the normal protective bulkhead common to  
33 single family residences;

34 (iii) Emergency construction necessary to protect property from  
35 damage by the elements;

36 (iv) Construction and practices normal or necessary for farming,  
37 irrigation, and ranching activities, including agricultural service  
38 roads and utilities on wetlands, and the construction and maintenance  
39 of irrigation structures including but not limited to head gates,

1 pumping facilities, and irrigation channels: PROVIDED, That a feedlot  
2 of any size, all processing plants, other activities of a commercial  
3 nature, alteration of the contour of the wetlands by leveling or  
4 filling other than that which results from normal cultivation, shall  
5 not be considered normal or necessary farming or ranching activities.  
6 A feedlot shall be an enclosure or facility used or capable of being  
7 used for feeding livestock hay, grain, silage, or other livestock feed,  
8 but shall not include land for growing crops or vegetation for  
9 livestock feeding and/or grazing, nor shall it include normal livestock  
10 wintering operations;

11 (v) Construction or modification of navigational aids such as  
12 channel markers and anchor buoys;

13 (vi) Construction on wetlands by an owner, lessee, or contract  
14 purchaser of a single family residence for his own use or for the use  
15 of his family, which residence does not exceed a height of thirty-five  
16 feet above average grade level and which meets all requirements of the  
17 state agency or local government having jurisdiction thereof, other  
18 than requirements imposed pursuant to this chapter;

19 (vii) Construction of a dock, including a community dock, designed  
20 for pleasure craft only, for the private noncommercial use of the  
21 owner, lessee, or contract purchaser of single and multiple family  
22 residences. This exemption applies if either: (A) The dock is no more  
23 than seven hundred square feet in horizontal surface area, including  
24 the ramp, and no section of the dock is wider than ten feet; or (B) the  
25 dock is located in a county composed entirely of islands with a  
26 population no greater than twenty-five thousand, the cost of ((which))  
27 the dock does not exceed two thousand five hundred dollars, and an  
28 ordinance has been adopted by a city, town, or county authorizing the  
29 conditions in this subsection (3)(e)(vii)(B) for this exemption. The  
30 city, town or county may adopt such an ordinance at its option. If a  
31 city, town, or county adopts an ordinance authorizing an exemption for  
32 a dock that meets the conditions of this subsection (3)(e)(vii)(B), the  
33 exemption for docks that meet the conditions set forth in  
34 (3)(e)(vii)(A) of this section does not apply within that jurisdiction;

35 (viii) Operation, maintenance, or construction of canals,  
36 waterways, drains, reservoirs, or other facilities that now exist or  
37 are hereafter created or developed as a part of an irrigation system  
38 for the primary purpose of making use of system waters, including

1 return flow and artificially stored ground water for the irrigation of  
2 lands;

3 (ix) The marking of property lines or corners on state owned lands,  
4 when such marking does not significantly interfere with normal public  
5 use of the surface of the water;

6 (x) Operation and maintenance of any system of dikes, ditches,  
7 drains, or other facilities existing on September 8, 1975, which were  
8 created, developed, or utilized primarily as a part of an agricultural  
9 drainage or diking system;

10 (xi) Any action commenced prior to December 31, 1982, pertaining to  
11 (A) the restoration of interim transportation services as may be  
12 necessary as a consequence of the destruction of the Hood Canal bridge,  
13 including, but not limited to, improvements to highways, development of  
14 park and ride facilities, and development of ferry terminal facilities  
15 until a new or reconstructed Hood Canal bridge is open to traffic; and  
16 (B) the reconstruction of a permanent bridge at the site of the  
17 original Hood Canal bridge.

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