

EHB 1648 - S AMD 447

By Senators Rasmussen, Schoesler, Spanel, Honeyford, Kilmer

ADOPTED 04/11/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that agricultural
4 activities are often subjected to nuisance lawsuits. The legislature
5 also finds that such lawsuits hasten premature conversion of
6 agricultural lands to other uses. The legislature further finds that
7 agricultural activities must be able to adopt new technologies and
8 diversify into new crops and products if the agricultural industry is
9 to survive and agricultural lands are to be conserved. Therefore, the
10 legislature intends to enhance the protection of agricultural
11 activities from nuisance lawsuits, and to further the clear legislative
12 directive of the state growth management act to maintain and enhance
13 the agricultural industry and conserve productive agricultural lands.

14 **Sec. 2.** RCW 7.48.305 and 1992 c 151 s 1 and 1992 c 52 s 3 are each
15 reenacted and amended to read as follows:

16 Notwithstanding any other provision of this chapter, agricultural
17 activities conducted on farmland and forest practices, if consistent
18 with good agricultural and forest practices and established prior to
19 surrounding nonagricultural and nonforestry activities, are presumed to
20 be reasonable and shall not be found to constitute a nuisance unless
21 the activity or practice has a substantial adverse effect on ((the))
22 public health and safety.

23 If those agricultural activities and forest practices are
24 undertaken in conformity with all applicable laws and rules, ((the
25 activities)) they are presumed to be good agricultural and forest
26 practices not adversely affecting the public health and safety for
27 purposes of this section and RCW 7.48.300. An agricultural activity
28 that is in conformity with such laws and rules shall not be restricted

1 as to the hours of the day or day or days of the week during which it
2 may be conducted.

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

5 **Sec. 3.** RCW 7.48.310 and 1992 c 52 s 4 are each amended to read as
6 follows:

7 As used in RCW 7.48.305:

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

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

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

32 (4) "Farm product" means those plants and animals useful to humans
33 and includes, but is not limited to, forages and sod crops, dairy and
34 dairy products, poultry and poultry products, livestock, including
35 breeding, grazing, and recreational equine use, fruits, vegetables,
36 flowers, seeds, grasses, trees, freshwater fish and fish products,

1 apiaries and apiary products, equine and other similar products, or any
2 other product which incorporates the use of food, feed, fiber, or fur.
3 (5) "Forest practice" means "forest practice" as defined in RCW
4 76.09.020."

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5 On page 1, line 2 of the title, after "practices;" strike the
6 remainder of the title and insert "amending RCW 7.48.310; reenacting
7 and amending RCW 7.48.305; and creating a new section."

EFFECT: Addresses title limit by deleting language regarding forest practices and operations. Clarifies that keeping of bees for producing agricultural or apicultural products (honey, beeswax, etc.) is protected. Clarifies that change in the type of plant-related farm product being produced is protected. Protects use of new practices and equipment consistent with technological development within the agricultural industry.

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