
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5096

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Barr, Hansen, Anderson, Newhouse, Conner, Bailey, Matson, Patterson, Amondson, Sellar, Bauer, McMullen and L. Smith).

Read first time March 6, 1991.

1 AN ACT Relating to the duties and responsibilities of the
2 department of agriculture; amending RCW 15.04.010; adding new sections
3 to chapter 15.04 RCW; adding a new section to chapter 34.05 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 15.04 RCW
7 to read as follows:

8 The history, economy, culture, and the future of Washington state
9 largely involves agriculture, which is vital to the economic well-being
10 of the state. The legislature finds that farmers and ranchers are
11 responsible stewards of the land, but are increasingly subjected to
12 complaints and unwarranted restrictions that encourage, and even force,
13 the premature removal of lands from agricultural uses.

14 The legislature further finds that it is now in the overriding
15 public interest that support for agriculture be clearly expressed and

1 that adequate protection be given to agricultural lands, uses,
2 activities, and operations.

3 The legislature further finds that the department of agriculture
4 has a duty to promote and protect agriculture and its dependent rural
5 community in Washington state.

6 It is the purpose of sections 3 through 5 of this act to provide
7 the department with the authority and responsibility to seek the
8 continued viability of agriculture and its dependent rural community in
9 this state. This effort is to promote the public welfare of the state
10 of Washington by assuring the viability of farm operations, preventing
11 the erosion of the tax base in rural areas, and enhancing the financial
12 stability of agriculture and its dependent rural community in this
13 state. To carry out this duty, it is necessary to develop a program to
14 examine the impact of state laws and rules on agriculture. This review
15 procedure shall be implemented to provide a means through which those
16 involved in agriculture may participate in the development of rules,
17 policies, standards, directives, and enforcement practices relating to
18 agricultural activities. The results and recommendations of such an
19 examination shall be considered by all agencies of this state.

20 **Sec. 2.** RCW 15.04.010 and 1961 c 11 s 15.04.010 are each amended
21 to read as follows:

22 As used in this title except where otherwise defined:

23 (1) "Agriculture" means the commercial production of food and fiber
24 and includes but is not limited to the production of freshwater
25 aquacultural, horticultural, viticultural, floricultural, dairy,
26 poultry, apiary, vegetable, herb, or animal products or of berries,
27 grain, hay, straw, turf, seed, Christmas trees, or livestock.

28 (2) "Agricultural activity" has the meaning defined in RCW
29 7.48.310.

1 (3) "Department" means the department of agriculture.

2 (4) "Director" means the director of agriculture.

3 (5) "The farm" means land, freshwater ponds, freshwater culturing
4 and growing facilities, buildings, and machinery devoted primarily to
5 the production of agricultural commodities for commercial purposes.

6 (6) "Person" includes any individual, firm, corporation, trust,
7 association, cooperative, copartnership, society, any other
8 organization of individuals, and any other business unit, device, or
9 arrangement.

10 (7) "Dependent rural community" means those businesses that provide
11 goods, materials, and services directly to the agricultural producer
12 such as: Feed, seed, fertilizer, pesticides, pharmaceuticals,
13 machinery, equipment, marketing, processing, conditioning storage, and
14 custom hire operators.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 15.04 RCW
16 to read as follows:

17 The department shall seek to enhance, protect, and perpetuate the
18 ability of the private sector to produce food and fiber. Additionally,
19 the department shall seek to maintain the economic well-being of the
20 agricultural industry and its dependent rural community in Washington
21 state. In a manner consistent with this goal, the department shall
22 initiate and administer the agricultural impact assessment review
23 program created in sections 4 through 6 of this act.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 15.04 RCW
25 to read as follows:

26 There is hereby created an agricultural impact assessment. Such
27 review shall consist of a comprehensive and ongoing review of proposed
28 rules, directives, and enforcement practices that adversely impact

1 agriculture, and shall include economic impacts, overlapping agency
2 jurisdiction, and conflicting requirements, cumulative effects of
3 regulation, redress for inappropriate or excessive regulation, and
4 other items deemed advisable. Additional review subjects may be
5 submitted to the department during public hearings held each year in
6 western, central, and eastern Washington locations for such purpose.

7 If, upon review by the department, existing or proposed rules,
8 directives, policies, standards, and enforcement practices are found to
9 have an adverse impact on agriculture, the department shall request
10 that the appropriate agency or agencies minimize or eliminate the
11 adverse impacts on agriculture. The affected agency or agencies shall
12 consider the recommendations developed by the assessment process in
13 reviewing existing or proposed rules, directives, policies, standards,
14 and enforcement practices. Resulting changes shall then be reviewed by
15 the department and the affected agency.

16 In conducting the agricultural impact assessment, the department
17 shall:

18 (1) Consider constitutional rights and guarantees, including
19 regulatory takings issues, and work to ensure that historic
20 prerogatives are integral to the agricultural impact assessment review
21 process such that property owners are protected from arbitrary and
22 discriminatory action that diminishes the right of ownership and use of
23 property.

24 (2) Review all changes to property access, while ensuring that all
25 persons have the right of protection from unauthorized access to their
26 property.

27 (3) Encourage the affected agency or agencies to ensure that all
28 rules, directives, policies, standards, and enforcement practices
29 acknowledge the diversity of agricultural land uses, activities, and
30 operations and allow for variations caused by weather, soil type or

1 condition, specific crops or livestock raised, or management practices
2 used.

3 (4) Encourage the affected agency or agencies to ensure that rules,
4 whether existing or proposed, acknowledge and respect historic
5 agricultural prerogatives and make no unreasonable or injurious demands
6 upon agriculture.

7 (5) Review all rules, directives, and enforcement practices for any
8 adverse economic impacts that limit the viability of agriculture such
9 as requirements for special labor effort, additional equipment, unique
10 facilities, training, or outside technical or professional support.

11 (6) Encourage the affected agency or agencies to ensure that all
12 rules, directives, policies, standards, and enforcement practices do
13 not restrict civil rights protections such as presumption of innocence.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 15.04 RCW
15 to read as follows:

16 The department shall: (1) Submit an annual report to the
17 appropriate committees of the house of representatives and the senate
18 detailing the department's activities in regard to agricultural impact
19 assessment. Such report shall include a compilation of all proposed
20 review items and the disposition of each; and (2) establish a series of
21 workshops to familiarize all affected agencies with the agricultural
22 impact assessment review process in order to facilitate their
23 compliance with such review process.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 34.05 RCW
25 to read as follows:

26 At least forty-five days before the publication of the notice of
27 hearing under RCW 34.05.320, the agency shall determine whether the
28 rule has a potential for adversely impacting agriculture under the

1 guidelines established in section 4 of this act, and shall submit such
2 rules to the department of agriculture for review under sections 3 and
3 4 of this act.

4 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
5 sections 4, 5, and 6 of this act, referencing this act by bill number,
6 is not provided by June 30, 1991, in the omnibus appropriations act,
7 sections 4, 5, and 6 of this act shall be null and void.