

# HOUSE BILL REPORT

## EHB 2545

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**As Passed House:**  
February 13, 2004

**Title:** An act relating to clarifying the meaning of ongoing agricultural activities.

**Brief Description:** Clarifying the meaning of ongoing agricultural activities.

**Sponsors:** By Representatives Condotta, Chase, Armstrong, Sump, Hunt, Chandler, Newhouse, Hinkle, Kristiansen, Holmquist, Clements, Schoesler and Skinner.

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 2/5/04, 2/6/04 [DP].

**Floor Activity:**

Passed House: 2/13/04, 93-3.

**Brief Summary of Engrossed Bill**

- Specifies that the term "ongoing agricultural burning" includes the burning of cultivated orchard trees regardless of whether the owner or operator of the land intends to replant trees on the land.

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**HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS**

**Majority Report:** Do pass. Signed by 8 members: Representatives Cooper, Chair; Representatives Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Buck, Hatfield, O'Brien, Pearson and D. Simpson.

**Minority Report:** Do not pass. Signed by 1 member: Representative Upthegrove, Vice Chair.

**Staff:** Jason Callahan (786-7117).

**Background:**

Outdoor burning, or the combustion of material in an open fire without providing for emissions control, is prohibited in many areas of the state. In particular, one is prohibited from burning in any area where the federal or state ambient air quality limits are exceeded for the pollutants associated with outdoor burning. In addition, outdoor burning is prohibited within the urban growth boundary of any city with a population of greater than 5,000 residents, regardless of air current air quality, as well as any city located within or contiguous to any area that has been identified as having a history of poor air quality.

There are certain circumstances when outdoor burning is allowed in areas where the activity is otherwise prohibited. These can include the burning of storm or flood-related debris, and certain agricultural burning. A person located in the urban growth area of a city with a population greater than 5,000 residents may still conduct agricultural burning if that burning is normal, necessary, and customary to ongoing agricultural activities, and not conducted during a period of impaired air quality. Also, the agricultural activities associated with the burning must have been occurring on the land preceding the designation of the land within an urban growth area. All other state requirements for agricultural burning must be satisfied before a landowner can burn within an urban growth area.

The Department of Ecology (Ecology) has defined in rule that agricultural burning excludes the burning of trees, stumps, shrubbery, or other natural vegetation from projects that clear the land surface so it can be developed, used for a different purpose, or left unused. This activity has been defined by the department as being "land clearing burning."

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**Summary of Engrossed Bill:**

The term "ongoing agricultural activities," as it is used to permit some outdoor burning, is specified to include the burning of cultivated orchard trees. Cultivated trees may be burned and still satisfy the criteria for "ongoing agricultural activities" regardless of whether the owner or operator of the land intends to replant the land with trees if a horticultural pest and disease board, a Washington State University extension agent, or an entomologist from the Department of Agriculture agree that burning is an appropriate pest control method.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The agriculture community is suffering, and many orchardists are being forced to remove their trees. When the removed trees remain in the fields, they can become a breeding ground for pests. The most economic way to avoid this threat is to burn the trees. Chipping the trees is much more expensive, and can be cost prohibitive. Orchards should be viewed as an agricultural product not just when they are standing, but until they are destroyed.

Ecology does allow some burning of the orchard tear-outs, but the burning opportunities are few and far between. Fines for violating the rules can be very expensive.

**Testimony Against:** This bill could allow large scale land clearing burning to return to urban areas. This increases the risks to life and property and increases costs to fire departments. The definition are broad and could allow for a lot of burning that is non associated with agriculture. Bill is also not limited to deal only with orchards, but all cultivated trees.

**Persons Testifying:** (In support) Mary Hunt, Douglas County Commissioner.

(In opposition) Stu Clark, Department of Ecology.

(With concerns) Mike Ryherd, Puget Sound Clean Air Agency.

**Persons Signed In To Testify But Not Testifying:** None.