
ENGROSSED SUBSTITUTE SENATE BILL 5352

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Agriculture (originally sponsored by Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn and Shin)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to agricultural land use; amending RCW 90.58.065,
2 36.70A.060, and 36.70A.170; and adding a new section to chapter 89.08
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 89.08 RCW
6 to read as follows:

7 The policy-making entity is authorized to enter into agreements
8 with the commodity credit corporation of the United States department
9 of agriculture to implement a conservation reserve enhancement program
10 to assist in the restoration or enhancement of habitat for salmonids
11 that have been listed as threatened or endangered species under the
12 federal endangered species act and/or the improvement of water quality.
13 The program shall continue to be delivered by conservation districts
14 organized under this chapter.

15 The policy-making entity is encouraged to examine conservation
16 reserve enhancement programs offered in other states and to examine
17 studies conducted by other states on how to increase the rate of
18 participation in the program while reducing overall costs.

1 Among the alternatives that shall be offered in the state of
2 Washington, the policy-making entity shall include the national
3 standard for conservation practice 391, the riparian forest buffer, as
4 established by the federal natural resources conservation service.

5 In administering this program, the goal of the policy-making entity
6 shall be to maximize the number of miles of stream habitat that are
7 benefited by the program while minimizing the total number of acres of
8 agricultural land that are taken out of production. Additionally, the
9 policy-making entity shall examine how other states have incorporated
10 the option of a permanent easement that continues beyond the contract
11 period.

12 If sufficient funds are not appropriated to the policy-making
13 entity to meet the demand for the program, conservation districts may
14 apply for additional funding to the salmon recovery funding board.

15 The policy-making entity, in consultation with the governor, shall
16 be the sole contact person for the state of Washington with the United
17 States department of agriculture and members of congress in regards to
18 developing successful policies for implementation of the conservation
19 reserve enhancement program in the state of Washington.

20 For purposes of this section, the "policy-making entity" shall be
21 the lead state person or body now or hereafter designated under this
22 chapter to establish policy and oversee programs conducted under this
23 chapter.

24 **Sec. 2.** RCW 90.58.065 and 2002 c 298 s 1 are each amended to read
25 as follows:

26 (1) The guidelines adopted by the department and master programs
27 developed or amended by local governments according to RCW 90.58.080
28 shall not require modification of or limit agricultural activities
29 occurring on agricultural lands. In jurisdictions where agricultural
30 activities occur, master programs developed or amended after June 13,
31 2002, shall include provisions addressing new agricultural activities
32 on land not meeting the definition of agricultural land, conversion of
33 agricultural lands to other uses, and development not meeting the
34 definition of agricultural activities. Nothing in this section limits
35 or changes the terms of the current exception to the definition of
36 substantial development in RCW 90.58.030(3)(e)(iv). This section

1 applies only to this chapter, and shall not affect any other authority
2 of local governments.

3 (2) For the purposes of this section:

4 (a) "Agricultural activities" means agricultural uses and practices
5 including, but not limited to: Producing, breeding, or increasing
6 agricultural products; rotating and changing agricultural crops;
7 allowing land used for agricultural activities to lie fallow in which
8 it is plowed and tilled but left unseeded; allowing land used for
9 agricultural activities to lie dormant as a result of adverse
10 agricultural market conditions; allowing land used for agricultural
11 activities to lie dormant because the land is enrolled in a local,
12 state, or federal conservation program, or the land is subject to a
13 conservation easement; enrolling and/or allowing land used for
14 agricultural activities to remain in a local, state, or federal
15 conservation program, such as the conservation reserve program or the
16 conservation reserve enhancement program, for the duration of the
17 contract and subsequent extensions; conducting agricultural operations;
18 maintaining, repairing, and replacing agricultural equipment;
19 maintaining, repairing, and replacing agricultural facilities, provided
20 that the replacement facility is no closer to the shoreline than the
21 original facility; and maintaining agricultural lands under production
22 or cultivation;

23 (b) "Agricultural products" includes but is not limited to
24 horticultural, viticultural, floricultural, vegetable, fruit, berry,
25 grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or
26 forage for livestock; Christmas trees; hybrid cottonwood and similar
27 hardwood trees grown as crops and harvested within twenty years of
28 planting; and livestock including both the animals themselves and
29 animal products including but not limited to meat, upland finfish,
30 poultry and poultry products, and dairy products;

31 (c) "Agricultural equipment" and "agricultural facilities"
32 includes, but is not limited to: (i) The following used in
33 agricultural operations: Equipment; machinery; constructed shelters,
34 buildings, and ponds; fences; upland finfish rearing facilities; water
35 diversion, withdrawal, conveyance, and use equipment and facilities
36 including but not limited to pumps, pipes, tapes, canals, ditches, and
37 drains; (ii) corridors and facilities for transporting personnel,
38 livestock, and equipment to, from, and within agricultural lands; (iii)

1 farm residences and associated equipment, lands, and facilities; and
2 (iv) roadside stands and on-farm markets for marketing fruit or
3 vegetables; and

4 (d) "Agricultural land" means those specific land areas on which
5 agriculture activities are conducted.

6 (3) The department and local governments shall assure that local
7 shoreline master programs use definitions consistent with the
8 definitions in this section.

9 **Sec. 3.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to read
10 as follows:

11 (1) Each county that is required or chooses to plan under RCW
12 36.70A.040, and each city within such county, shall adopt development
13 regulations on or before September 1, 1991, to assure the conservation
14 of agricultural, forest, and mineral resource lands designated under
15 RCW 36.70A.170. Regulations adopted under this subsection may not
16 prohibit uses legally existing on any parcel prior to their adoption
17 and shall remain in effect until the county or city adopts development
18 regulations pursuant to RCW 36.70A.040. Such regulations shall assure
19 that the use of lands adjacent to agricultural, forest, or mineral
20 resource lands shall not interfere with the continued use, in the
21 accustomed manner and in accordance with best management practices, of
22 these designated lands for the production of food, agricultural
23 products, or timber, or for the extraction of minerals. Counties and
24 cities shall require that all plats, short plats, development permits,
25 and building permits issued for development activities on, or within
26 five hundred feet of, lands designated as agricultural lands, forest
27 lands, or mineral resource lands, contain a notice that the subject
28 property is within or near designated agricultural lands, forest lands,
29 or mineral resource lands on which a variety of commercial activities
30 may occur that are not compatible with residential development for
31 certain periods of limited duration. The notice for mineral resource
32 lands shall also inform that an application might be made for mining-
33 related activities, including mining, extraction, washing, crushing,
34 stockpiling, blasting, transporting, and recycling of minerals.

35 (2) Each county and city shall adopt development regulations that
36 protect critical areas that are required to be designated under RCW
37 36.70A.170. For counties and cities that are required or choose to

1 plan under RCW 36.70A.040, such development regulations shall be
2 adopted on or before September 1, 1991. For the remainder of the
3 counties and cities, such development regulations shall be adopted on
4 or before March 1, 1992.

5 (3) No county shall adopt development regulations under this
6 chapter that directly or indirectly preclude a person owning land from
7 being able to qualify for enrollment of a parcel or a portion of any
8 parcel in the conservation reserve enhancement program, or equivalent
9 program that provides for the restoration or enhancement of fish and
10 wildlife habitat and/or the improvement of water quality.

11 (4) Each county and city with agricultural lands designated under
12 RCW 36.70A.170 shall allow wineries, affiliated and ancillary tasting
13 rooms, and accessory uses as a permitted use acceptable and compatible
14 with other agricultural-related industries within all such agricultural
15 land designations. Such use may only be restricted in a manner
16 uniformly applied to all permitted uses in all agricultural zoning
17 classifications in each city and county.

18 (5) Such counties and cities shall review these designations and
19 development regulations when adopting their comprehensive plans under
20 RCW 36.70A.040 and implementing development regulations under RCW
21 36.70A.120 and may alter such designations and development regulations
22 to insure consistency.

23 ~~((+4))~~ (6) Forest land and agricultural land located within urban
24 growth areas shall not be designated by a county or city as forest land
25 or agricultural land of long-term commercial significance under RCW
26 36.70A.170 unless the city or county has enacted a program authorizing
27 transfer or purchase of development rights.

28 **Sec. 4.** RCW 36.70A.170 and 1990 1st ex.s. c 17 s 17 are each
29 amended to read as follows:

30 (1) On or before September 1, 1991, each county, and each city,
31 shall designate where appropriate:

32 (a) Agricultural lands that are not already characterized by urban
33 growth and that have long-term significance for the commercial
34 production of food or other agricultural products;

35 (b) Forest lands that are not already characterized by urban growth
36 and that have long-term significance for the commercial production of
37 timber;

1 (c) Mineral resource lands that are not already characterized by
2 urban growth and that have long-term significance for the extraction of
3 minerals; and

4 (d) Critical areas.

5 (2) In making the designations required by this section, counties
6 and cities shall consider the guidelines established pursuant to RCW
7 36.70A.050.

8 (3) Enrolling land designated by a county as agricultural land of
9 long-term commercial significance and/or allowing such land to remain
10 in a local, state, or federal conservation program, such as the
11 conservation reserve program or the conservation reserve enhancement
12 program, for the duration of the contract and subsequent extensions
13 shall not be considered to be in violation of its designation as
14 agricultural land of long-term commercial significance. After
15 expiration of the contract and subsequent extensions, land enrolled in
16 such programs shall be allowed to return to its designated agricultural
17 use unless a permanent easement has been acquired.

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