

# HOUSE BILL REPORT

## HB 2640

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to limiting liability for registered apiarists.

**Brief Description:** Limiting liability for registered apiarists.

**Sponsors:** Representatives Buys, Peterson, Pike, Lytton, Stambaugh and Blake.

**Brief History:**

**Committee Activity:**

Judiciary: 1/31/18, 2/1/18 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Limits liability of apiary owners and operators for civil damages.</li></ul>
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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Jenkins, Chair; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

**Staff:** Cece Clynch (786-7195).

**Background:**

Tort Liability and Immunity.

A tort is an act or omission that gives rise to injury or harm for which liability can be imposed. The boundaries of tort law are defined in both common law and statutory law. Torts fall into three general categories: negligent torts, intentional torts, and strict liability torts.

Negligence is the failure to exercise ordinary care. The plaintiff in a negligence action must establish four things: (1) the defendant owed a duty of care to the plaintiff; (2) the defendant breached that duty; (3) the plaintiff suffered injury or damage; and (4) the breach was a proximate cause of the injury or damage.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Intentional torts involve acts or omissions that a person knew or should have known would result in injury or harm to another person. Strict liability has been imposed when a particular result or harm manifests from a specific type of activity, animal, or situation, regardless of the degree of care that a person exercises.

There are a variety of statutes that provide some form of immunity from liability to certain persons or entities. For example, the equine activity immunity statute provides immunity to equine professionals and organizations or facilities (such as riding clubs, 4-H clubs, stables, and fairs) for injuries caused to participants in equine activities. This immunity does not apply in all situations, including where the injury was caused by an intentional act or resulted from a willful or wanton disregard for the person's safety, or where there was a known dangerous latent condition that was not conspicuously posted with a warning sign.

### Bees and Apiaries.

Chapter 15.60 RCW establishes apiary registration requirements and authorizes apiary coordinated areas.

#### *Definitions.*

- "Apiary" means a site where hives of bees or hives are kept or found.
- "Apiarist" means any person who owns bees or is a keeper of bees.
- "Hive" means a manufactured receptacle or container prepared for the use of bees that includes movable frames, combs, and substances deposited into the hive by bees.
- "Colony" refers to a natural group of bees having a queen or queens.
- "Person" means a natural person, individual, firm, partnership, company, society, association, corporation, or every officer, agent, or employee of one of these entities.
- "Broker" means a person who is engaged in pollinating agricultural crops for a fee using hives that are owned by another person.

#### *Registration requirements.*

Each person owning one or more hives with bees, brokers renting hives, and apiarists resident in other states who operate hives in Washington must register annually with the Department of Agriculture (Department). In 2018 fees for owners range from \$5 for one to five colonies and up to \$300 for 1,001 or more colonies. Fees for brokers range from \$100 for one to 500 colonies and up to \$300 for 1,001 or more colonies. The Department issues each registered apiarist or broker an apiarist identification number.

#### *Apiary Coordinated Areas.*

Counties may establish apiary coordinated areas. In these areas, counties may regulate the maximum allowable number of hives per site, the minimum allowable distance between sites, and the minimum required setback from property lines. The county legislative authority of a county with a population of 40,000 to less than 70,000 located east of the crest of the Cascade Mountains and bordering the southern side of the Snake River is additionally empowered to designate certain territories (not less than two square miles in any such territory) and specify the time of year the regulations shall be in effect.

### **Summary of Substitute Bill:**

A person who owns or operates an apiary and meets the qualifying requirements set forth below is not liable for any civil damages that occur in connection with the keeping and maintaining of bees, bee equipment, queen breeding equipment, apiaries, and appliances. In order to qualify, the apiary owner or operator must:

- be a registered apiarist;
- abide by all applicable city, town, or county ordinances regarding beekeeping; and
- operate the apiary in a reasonable manner and in accordance with generally accepted beekeeping practices.

This limitation of liability does not apply to acts or omissions that are reckless.

### **Substitute Bill Compared to Original Bill:**

The substitute bill provides that the limitation on liability does not apply to acts or omissions that are reckless, rather than willful and wanton misconduct.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

### **Staff Summary of Public Testimony:**

(In support) The bill provides a carrot to beekeepers to register and operate reasonably. It is a win-win for the Department of Agriculture and beekeepers. While registration is currently required, there are no penalties. Registration is important in order to know how many hives are in the state and how the bee population is doing statewide. It is only \$5 to register up to five hives. The money received from registration goes to Washington State University for research on bees. Commercial beekeepers do not have to worry about liability because they receive protection from farm laws. Beekeepers in urban areas are not just hobbyists. Their bees provide an important contribution, pollinating fruit trees, vegetables, flowers, pumpkins, and squash. This is especially important because people want locally grown food. Bees contribute \$33 billion worth of ecosystem services to the planet. Beekeepers in more urban areas may not choose to keep bees out of fear that their neighbors will sue them or because they are unable to find insurance. This bill will allow them to keep bees without fear as long as they comply with registration and local regulations. It is good for the environment. In one situation, hundreds of hives of bees suddenly appeared on a vacant piece of property without the property owner's permission, and the house started turning brown because the bees were ill. Because the hives were not numbered, there was no way of knowing who owned them. This bill would not provide immunity in that situation.

(Opposed) The willful and wanton standard is akin to immunity, and there is no telling what this standard would mean in the context here. There is a huge gap between negligence and willful and wanton. It is not clear that even the story about the ill bees would constitute willful and wanton misconduct. The bill is confusing. There does not appear to have been any lawsuits with respect to bees in this area.

**Persons Testifying:** (In support) Representative Buys, prime sponsor; Tim Hiatt, Washington State Beekeeping Association; and Mark Emrich, Olympia Beekeepers Association.

(Opposed) Larry Shannon, Washington State Association for Justice.

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