

SENATE BILL REPORT

SB 5431

As of February 6, 2017

Title: An act relating to protection of composting from nuisance lawsuits.

Brief Description: Concerning the protection of composting from nuisance lawsuits.

Sponsors: Senators Warnick, Takko, Brown, Hawkins, Lias, Schoesler, Honeyford and Fortunato.

Brief History:

Committee Activity: Agriculture, Water, Trade & Economic Development: 2/07/17.

Brief Summary of Bill

- Adds compost to the definition of farm products for the purposes of nuisance law.

SENATE COMMITTEE ON AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT

Staff: Karen Epps (786-7424)

Background: Certain agricultural activities conducted on farmland are generally presumed to be reasonable and not a nuisance unless the activity or practice has a substantial adverse effect on public health and safety. In order to be considered reasonable and thus not a nuisance, the agricultural activities must be consistent with good agricultural practices and established prior to surrounding nonagricultural activities. Agricultural activities that comply with all applicable laws and rules are presumed to be good agricultural practices. For the purposes of nuisance law, agricultural activities are defined as activities that occur on a farm in connection with the commercial production of farm products and includes, but is not limited to: having roadside stands at the farm; noise; odors; dust; fumes; operation of machinery and irrigation pumps; the keeping of bees; having employees on the farm; and conversion from one agricultural activity to another.

In a nuisance lawsuit, a plaintiff may sue a defendant property owner based on the claim that the defendant makes unreasonable use of the defendant's property to the detriment of the plaintiff's property. For the purposes of nuisance law, farm products are defined to include

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those plants and animals useful to humans and includes crops, dairy and dairy products, poultry and poultry products, livestock, vegetables, flowers, trees, freshwater fish and fish products, apiaries, or any other product which incorporates the use of food, feed, fiber, or fur.

Summary of Bill: Compost is added to the definition of farm products for the purposes of nuisance law.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Agricultural operations are exempt from nuisance lawsuits. Agriculture wants to be good neighbors and composting facilities want to be good neighbors as well. Composting is very important to farming. The compost industry supports the growing need of local governments to reduce landfill volumes and enhance recycling. The industry keeps waste fees lower for the ratepayer and the recycled products improve soil, air, and water quality. This bill makes a simple change that will protect the composting industry and the communities it serves far into the future. Adding compost to the definition of farm products will clarify and confirm protection from nuisance lawsuits for composting facilities. This bill does not make any changes to the significant regulations or guidelines already in place for the industry.

OTHER: There are concerns with the bill because it adds compost to a definition but does not further define what compost is, which raises questions of whether the compost operation is industrial or how the land is zoned. In rural counties or rural areas of counties, agriculture is an allowed use and every effort is made to keep it as unregulated as possible. There are counties with urban/rural interface with neighbor to neighbor nuisance issues and if counties are not allowed to create at least a few parameters, that raises some concerns.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Jay Blazey, Cedar Grove.

OTHER: Laura Berg, WA State Assn. of Counties.

Persons Signed In To Testify But Not Testifying: No one.