
SUBSTITUTE SENATE BILL 5196

State of Washington

65th Legislature

2017 Regular Session

By Senate Agriculture, Water, Trade & Economic Development
(originally sponsored by Senators Warnick, Hobbs, Takko, King, Chase,
and Honeyford)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to including certain cattle feedlots within the
2 statutory exemption for odor or fugitive dust caused by agricultural
3 activity; and amending RCW 70.94.640.

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

5 **Sec. 1.** RCW 70.94.640 and 2005 c 511 s 4 are each amended to
6 read as follows:

7 (1) Odors or fugitive dust caused by agricultural activity
8 consistent with good agricultural practices on agricultural land are
9 exempt from the requirements of this chapter unless they have a
10 substantial adverse effect on public health. In determining whether
11 agricultural activity is consistent with good agricultural practices,
12 the department of ecology or board of any authority shall consult
13 with a recognized third-party expert in the activity prior to issuing
14 any notice of violation.

15 (2) Any notice of violation issued under this chapter pertaining
16 to odors or fugitive dust caused by agricultural activity shall
17 include a detailed statement with evidence as to why the activity is
18 inconsistent with good agricultural practices, or a detailed
19 statement with evidence that the odors or fugitive dust have
20 substantial adverse effect on public health.

1 (3) In any appeal to the pollution control hearings board or any
2 judicial appeal, the agency issuing a final order pertaining to odors
3 or fugitive dust caused by agricultural activity shall prove the
4 activity is inconsistent with good agricultural practices or that the
5 odors or fugitive dust have a substantial adverse impact on public
6 health.

7 (4) If a person engaged in agricultural activity on a contiguous
8 piece of agricultural land sells or has sold a portion of that land
9 for residential purposes, the exemption of this section shall not
10 apply.

11 (5) As used in this section:

12 (a) "Agricultural activity" means the growing, raising, or
13 production of horticultural or viticultural crops, berries, poultry,
14 livestock, shellfish, grain, mint, hay, and dairy products.
15 "Agricultural activity" also includes the growing, raising, or
16 production of cattle at cattle feedlots.

17 (b) "Good agricultural practices" means economically feasible
18 practices which are customary among or appropriate to farms and
19 ranches of a similar nature in the local area and for cattle feedlots
20 means implementing best management practices pursuant to a fugitive
21 dust control plan that conforms to the fugitive dust control
22 guidelines for beef cattle feedlots, best management practices, and
23 plan development and approval procedures that were approved by the
24 department of ecology in December 1995 or in updates to those
25 guidelines that are mutually agreed to by the department of ecology
26 and by the Washington cattle feeders association or a successor
27 organization on behalf of cattle feedlots.

28 (c) "Agricultural land" means at least five acres of land devoted
29 primarily to the commercial production of livestock, agricultural
30 commodities, or cultured aquatic products.

31 (d) "Fugitive dust" means a particulate emission made airborne by
32 human activity, forces of wind, or both, and which do not pass
33 through a stack, chimney, vent, or other functionally equivalent
34 opening.

35 (6) The exemption for fugitive dust provided in subsection (1) of
36 this section does not apply to facilities subject to RCW 70.94.151 as
37 specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or
38 70.94.161. The exemption for fugitive dust provided in subsection (1)
39 of this section applies to cattle feedlots with operational
40 facilities which have an inventory of one thousand or more cattle in

1 operation between June 1st and October 1st, where vegetation forage
2 growth is not sustained over the majority of the lot during the
3 normal growing season; except that the cattle feedlots must comply
4 with applicable requirements included in the approved state
5 implementation plan for air quality as of the effective date of this
6 section; and except if an area in which a cattle feedlot is located
7 is at any time in the future designated nonattainment for a national
8 ambient air quality standard for particulate matter, additional
9 control measures may be required for cattle feedlots as part of a
10 state implementation plan's control strategy for that area and as
11 necessary to ensure the area returns to attainment.

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