

HOUSE BILL REPORT

HB 1133

As Amended by the Senate

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

Brief Description: Limiting liability for registered apiarists.

Sponsors: Representatives Peterson, Griffey, Irwin, McCaslin, Lekanoff, Shea, Goodman and Stanford.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/23/19, 2/1/19 [DP].

Floor Activity:

Passed House: 2/14/19, 95-1.

Senate Amended.

Passed Senate: 4/16/19, 47-1.

Brief Summary of Bill

- Limits the civil liability of apiary owners and operators in certain circumstances.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 15 members: Representatives Jenkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

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 may be imposed. The boundaries of tort law are defined in both common law and statutory law.

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.

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. "Gross negligence" means the failure to exercise slight care. According to Washington Pattern Jury Instructions, "It is negligence which is substantially greater than ordinary negligence. Failure to exercise slight care does not mean the total absence of care but care substantially less than ordinary care."

Intentional torts involve acts or omissions that a person knew or should have known would result in injury or harm to another person. "Wanton misconduct" is the intentional doing of an act which one has a duty to refrain from doing or the intentional failure to do an act which one has a duty to do, in reckless disregard of the consequences and under such surrounding circumstances and conditions that a reasonable person would know, or should know, that such conduct would, in a high degree of probability, result in substantial harm to another. "Willful misconduct" is the intentional doing of an act which one has a duty to refrain from doing or the intentional failure to do an act which one has the duty to do when one has actual knowledge of the peril that will be created and intentionally fails to avert injury or actually intends to cause harm.

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 2019 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 2 square miles in any such territory) and specify the time of year the regulations shall be in effect.

Summary of 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, unless the acts or omissions constitute any level of culpability higher than ordinary negligence.

In order to qualify, the apiary owner or operator must:

- be a registered apiarist; and
- conform to all applicable city, town, or county ordinances regarding beekeeping.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment rewords the limitation on liability and provides that a registered apiary owner or operator, in compliance with all local ordinances regarding beekeeping, is not liable for civil damages unless the acts or omissions constitute "gross negligence or willful misconduct," rather than "any level of culpability higher than ordinary negligence."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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 last year made it almost all the way through. The amendments from last year have been incorporated into this bill. Pollinators are crucial for a variety of reasons. Some municipalities have expressed concerns with urban beekeeping. This bill will address

liability concerns. Hives are vital to the state's economy and agriculture, and the state has an important policy interest in seeing that there are healthy hives throughout the state, including in urban areas. Right-to-farm laws protect commercial beekeepers in rural areas, but some liability protections are needed in urban areas. This compromise language is agreeable. Without bees, there would be few fruits or vegetables to eat.

(Opposed) None.

Persons Testifying: Representative Peterson, prime sponsor; and Tim Johnson and Tim Hiatt, Washington State Beekeepers Association.

Persons Signed In To Testify But Not Testifying: None.