

# HOUSE BILL REPORT

## SHB 1954

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*As Amended by the Senate*

**Title:** An act relating to agricultural nuisances.

**Brief Description:** Changing conditions and limitations on agricultural nuisances.

**Sponsor(s):** By House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Nealey, McLean, R. Johnson, Chandler, Kremen, D. Sommers, Ballard, Roland, Bowman, Grant, Inslee, Rasmussen and Sheldon).

**Brief History:**

Reported by House Committee on:

Agriculture & Rural Development, February 28, 1991, DPS;  
Passed House, March 20, 1991, 97-0.  
Amended by Senate.

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**HOUSE COMMITTEE ON  
AGRICULTURE & RURAL DEVELOPMENT**

**Majority Report:** *That Substitute House Bill No. 1954 be substituted therefor, and the substitute bill do pass.*  
Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

**Staff:** Kenneth Hirst (786-7105).

**Background:** State law declares that an agricultural activity conducted on farmland is reasonable and does not constitute a nuisance under the following circumstances: (1) the activity does not have a substantial adverse effect on public health and safety; (2) the activity is consistent with good agricultural practices; and (3) the activity was established before surrounding nonagricultural activities. The public health and safety is not adversely affected and the agricultural activity is presumed to be a good agricultural practice if the activity is undertaken in conformity with federal, state, and local laws and rules.

**Summary of Bill:** The exemption granted by law to agricultural activities from regulation as nuisances is modified. The exemption applies to the primary production

of certain farm products on a commercial farm and the activities associated with that production. The "commercial farm" on which the activities are exempt is one which qualifies as such under federal census laws or rules or is composed of the waters and lands used in the production of private sector cultured aquatic products. The farm products, the production of which are exempt, are the plants and animals useful to humans for use, either directly or when processed, as ornamentation or as food, feed for animals, fiber, or fur.

Nonexclusive lists of the associated agricultural activities and farm products which qualify for the exemption are provided. This exemption does not impair any right to sue for damages.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendments delete provisions of the Substitute House Bill which: declare that the exemption from nuisance regulation provided by the bill and current law for certain agricultural activities does not affect or impair any right to sue for damages; restrict the exemption to activities for the primary production of farm products; and treat a saltwater aquaculture farm as a farm which qualifies for the exemption. The nonexclusive lists of agricultural activities and farm products to which the exemption applies are also altered. For example, the amendments add breeding, grazing, and recreational equine use to the activities which expressly qualify for the exemption, but, unlike the Substitute House Bill, do not expressly include the drift associated with agricultural activities within the list of things covered by the exemption.

**Fiscal Note:** Not requested.

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

**Testimony For:** (1) The bill supports farmers' right to farm. It provides protection against frivolous law suits.  
(2) If a person violates a law, the person is still liable for the damages.

**Testimony Against:** None.

**Witnesses:** Jim Zimmerman, Trout Lodge Incorporated (in favor); and Bruce Ellingson, Washington Association of Apple Growers.

**VOTE ON FINAL PASSAGE:**  
Yeas 97; Absent 1

Absent: Representative Hine