
SUBSTITUTE SENATE BILL 5039

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr and Conner).

Read first time February 20, 1991.

1 AN ACT Relating to the establishment of a biological control
2 program; adding a new chapter to Title 17 RCW; prescribing penalties;
3 and making an appropriation.

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

5 NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this chapter is to
6 facilitate the use of biological control agents to manage infestations
7 of insects, noxious weeds, and other plant pests that adversely impact
8 agriculture, horticulture, forestry, and related industries and
9 adversely impact Washington's natural resources and environment.
10 Biological control, in most instances, is not an eradication process
11 but rather is a tool to manage the impact of a pest or noxious weed
12 where it cannot be eradicated.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
2 requires otherwise, the definitions in this section apply throughout
3 this chapter.

4 (1) "Director" means the director of the state department of
5 agriculture or the director's designee.

6 (2) "Department" means the state department of agriculture.

7 (3) "Person" means a natural person, individual, firm, partnership,
8 company, society, and association, and every officer, agent, and
9 employee of these entities.

10 (4) "Biological control" means the use, by humans, of living
11 organisms to control or suppress undesirable animals and plants; the
12 action of parasites, predators, or pathogens on a host or prey
13 population to produce a lower general population equilibrium position
14 than would prevail in the absence of these agents.

15 (5) "Biological control agent" means a parasite, predator, or
16 pathogen or competing organism capable of reducing an undesired host or
17 prey population.

18 (6) "Parasite" means an organism that lives in or on another, the
19 host, from which it obtains food, shelter, or other requirements.

20 (7) "Hyperparasite" means a parasite that lives in or on another
21 parasitic plant or animal.

22 (8) "Predator" means an organism that obtains energy, as food, from
23 consuming, usually killing, two or more prey organisms during its
24 lifetime.

25 (9) "Population" means a group of plants or animals of the same
26 species existing within a defined time and space.

27 (10) "Host" means a plant or animal that provides sustenance or
28 lodging for a parasitic, predatory, or infectious organism.

1 (11) "Host plant" means a plant that is invaded by a parasite or an
2 invertebrate organism from which the parasite or invertebrate organism
3 obtains its nutrients.

4 (12) "Plant disease" means a disturbance brought about by a
5 pathogen or an environmental factor that interferes with manufacture,
6 translocation, or utilization of food, mineral nutrients, and water in
7 such a way that the affected plant changes, less than a normal plant of
8 the same variety, its appearance or yields, or both.

9 (13) "Plant pathogen" means a living stage of an algae, bacteria,
10 fungi, mycoplasmas, protozoa, nematodes, or reproductive parts of these
11 organisms, or viruses or organisms or infectious substances capable of
12 directly or indirectly causing diseases in plants.

13 (14) "Target species" means the particular plant or animal species
14 that a biological control agent is released to control or suppress.

15 (15) "Host specific" means a quality of a biological control agent
16 with which that agent suppresses or controls only one or a small number
17 of specific species and does not attack a broad range of hosts or prey.

18 NEW SECTION. **Sec. 3.** BIOLOGICAL CONTROL PROGRAM. (1) There is
19 established in the department the position of biological control
20 coordinator to coordinate, facilitate, and maintain information on
21 biological control activities in the state and plan and carry out
22 department biocontrol activities. The biological control coordinator
23 will assist in developing cooperative arrangements and agreements with
24 either agencies, institutions, or individuals working in the biological
25 control area. In implementing this program, the director may assist in
26 collecting or redistributing biological control agents. In addition,
27 the biological control coordinator with advice from the advisory
28 committee shall advise the director on the technical feasibility of

1 using biological control when state-wide or regional insect or noxious
2 weed programs are planned.

3 (2) The director may make rules and do such acts as are necessary
4 to carry out the purposes of this chapter.

5 NEW SECTION. **Sec. 4.** COOPERATION WITH OTHER AGENCIES. In
6 implementing a biological control program, the department shall
7 encourage and cooperate with Washington State University, the United
8 States department of agriculture animal and plant health inspection
9 service (APHIS), the United States department of agriculture
10 agricultural research service (ARS), the United States environmental
11 protection agency, the state noxious weed control board and local weed
12 control agencies and other persons, institutions, and organizations
13 engaged in biological control activities, and shall avoid, as far as
14 practical, duplicating the work of these agencies.

15 To implement this section, the director is empowered to enter into
16 cooperative agreements or arrangements with persons or organizations to
17 work cooperatively on biological control projects or educational
18 projects and to support research on and acquisition or redistribution
19 of biological control agents whenever funds are appropriated, or
20 otherwise provided through cooperative agreements.

21 NEW SECTION. **Sec. 5.** ADVISORY BOARD. There is created in the
22 department the biological control advisory board, consisting of the
23 director or the director's designee and six members that are
24 knowledgeable about pest control appointed by the director. The board
25 shall consist of two representatives from Washington State University,
26 a representative of the state and local noxious weed control boards, a
27 representative from environmental/public interest groups, a
28 representative from the mosquito control districts, and a

1 representative of the agricultural organizations. The director may
2 request that the United States department of agriculture and other
3 federal, state, or local agencies with knowledge about weed control
4 also serve on the board as ex officio members.

5 The term of office for members of the board shall be three years or
6 until their successors have been appointed. The terms shall be
7 staggered. In the event a committee member resigns, is disqualified,
8 or vacates a position on the committee for any reason, the director
9 shall fill the unexpired term under the appointment provisions of this
10 section.

11 The board shall be advisory to the director in all matters relating
12 to the import into and use of biological control agents in the state.

13 NEW SECTION. **Sec. 6.** INTRODUCTION AND MOVEMENT OF BIOLOGICAL
14 CONTROL AGENTS. (1) All introduction, collection, movement, and
15 release of biological control agents into and within the state of
16 Washington shall be under rules adopted by the director pursuant to
17 chapter 34.05 RCW. The director may enter into a cooperative agreement
18 with Washington State University-The United States department of
19 agriculture to act as the director's agent for biological control
20 agents collected, moved, or released by the university and federal
21 agencies within the state.

22 (2) Introduction, collection, movement, and release of biological
23 control agents into and within the state of Washington classified by
24 rule as "regulated" shall be by permit issued by the department under
25 rule.

26 (3) Except for research projects approved by the department, a
27 permit for any biological control agent may not be issued unless the
28 department has determined that the agent is host specific to the target
29 species and not likely to become a pest of nontarget plants or other

1 beneficial organisms. The director may also exclude biological control
2 agents that may be infested with hyperparasites likely to be
3 detrimental to the biological control efforts of the state. The
4 director may rely on the United States department of agriculture, or
5 such other experts as the director may deem appropriate, including but
6 not limited to the advisory board, in making this determination.

7 (4) No permit may be issued for the collection or movement of any
8 regulated biological control agent within the state of Washington
9 unless the applicant has written permission to collect and redistribute
10 the regulated agent from the person, agency, or institution that has
11 placed the agents.

12 (5) The director shall maintain records on the introduction,
13 collection, movement, and release of regulated biological control
14 agents into and within the state.

15 NEW SECTION. **Sec. 7.** CLASSIFICATION OF BIOLOGICAL CONTROL
16 AGENTS. (1) The director shall adopt rules providing for the
17 classification of agents used for biological control. In the rules,
18 biological control agents shall be divided into two classifications for
19 introduction, collection, movement, or release into or within the
20 state. The classifications shall be reviewed annually to determine if
21 the need exists for a hearing to update such classifications. Agents
22 shall be divided into the following classes:

23 (a) Unregulated agents. Agents that are so widespread that
24 introduction, collection, movement, and release can be accomplished
25 without threat to maintenance of the population; and agents typically
26 released as inundative treatments or for greenhouse pests.

27 (b) Regulated agents. Agents that are newly introduced where
28 sustainable populations have not been established; agents that
29 represent a significant economic investment by the person, agency, or

1 institution that placed the agents in a site or developed the agents by
2 techniques of bioengineering; agents that may pose a threat in other
3 than specific environments; agents that are in facilities of agencies
4 with whom the department has a cooperative agreement that are in a
5 registered insectary or plant pathogen propagation site for increase of
6 population; or experimental agents moved only under a permit issued by
7 the department and the United States department of agriculture and
8 typically maintained in a secured facility that is subject to
9 inspection and approval by the department or the United States
10 department of agriculture.

11 (2) Agents used for biological control not otherwise listed in rule
12 shall be automatically classified as regulated until such time as they
13 are listed in rule.

14 NEW SECTION. **Sec. 8.** REGISTERED INSECTARIES AND PLANT PATHOGEN
15 PROPAGATION SITES. The director may adopt rules for establishing and
16 maintaining registered insectaries and plant pathogen propagation sites
17 and for protecting the biological control agents therein and
18 establishing a reasonable registration fee to cover the cost of
19 maintaining records. No biological control agents may be collected and
20 removed from a registered insectary or plant pathogen propagation site
21 without a permit from the department and written permission of the
22 person, agency, or institution establishing the insectary or
23 propagation site.

24 NEW SECTION. **Sec. 9.** CONFIDENTIALITY. Persons making application
25 for a permit pursuant to this chapter, may designate, in accordance
26 with RCW 15.58.065, portions of the data that in the applicant's
27 opinion are trade secrets or commercial or financial information. The

1 director shall make decisions regarding the confidentiality of such
2 information in accordance with RCW 15.58.065.

3 NEW SECTION. **Sec. 10.** INJUNCTIONS. The director may bring an
4 action to enjoin the violation of any provision of this chapter or rule
5 adopted under this chapter in the county where the violation has
6 occurred, notwithstanding the existence of any other remedies at law.

7 NEW SECTION. **Sec. 11.** VIOLATIONS--PENALTY. A person violating
8 the provisions of this chapter or the rules adopted under this chapter,
9 may be subject to a civil penalty, as determined by the director, in an
10 amount not more than one thousand dollars for each violation.

11 NEW SECTION. **Sec. 12.** SEVERABILITY. If any provision of this act
12 or its application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 13.** CAPTIONS NOT LAW. Captions as used in this
16 chapter constitute no part of the law.

17 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act shall
18 constitute a new chapter in Title 17 RCW.

19 NEW SECTION. **Sec. 15.** The sum of one hundred ninety thousand
20 dollars, or as much thereof as may be necessary, is appropriated for
21 the biennium ending June 30, 1993, from the general fund to the
22 department of agriculture for the purposes of implementing the
23 biological control program in this act.