

SENATE BILL 5039

State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr and Conner.

Read first time January 16, 1991. Referred to Committee on Agriculture & Water Resources.

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

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 intentionally released, by humans, into a target host or prey
17 population with the intent of causing population reduction of that host
18 or prey.

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

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

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

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

28 (10) "Host" means a plant or animal that provides sustenance or
29 lodging for a parasitic, predatious, 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, or reproductive parts of these items, or
11 viruses or an organism similar to or allied with these items, including
12 a genetically engineered organism or an infectious substance that can
13 directly or indirectly cause disease in beneficial organisms, plants or
14 plant parts, or a processed or manufactured product of plants.

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

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

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

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

3 (2) If adequate resources are not available to fully implement the
4 activities under this chapter, the department shall give priority to
5 those activities that are aimed at the control of weeds in rangeland
6 areas that are deleterious to rangeland vegetation.

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

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

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

25 NEW SECTION. **Sec. 5.** ADVISORY BOARD. There is created in the
26 department the biological control advisory board, consisting of the
27 director or the director's designee and five members that are
28 knowledgeable about pest control appointed by the director. The board

1 shall consist of two representatives from Washington State University,
2 a representative of the state and local noxious weed control boards, a
3 representative from environmental/public interest groups, and a
4 representative of the agricultural organizations. The director may
5 request that other federal, state, or local agencies with knowledge
6 about weed control also serve on the board as ex officio members.

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

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

15 NEW SECTION. **Sec. 6.** INTRODUCTION AND MOVEMENT OF BIOLOGICAL
16 CONTROL AGENTS. (1) All introduction, collection, movement, and
17 release of biological control agents into and within the state of
18 Washington shall be under rules issued by the director. The director
19 may enter into a cooperative agreement with Washington State University
20 to act as the director's agent for biological control agents collected,
21 moved, or released by the university 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 target organism or plant
29 specific 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, if written permission can be reasonably established.

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 for cyclic or 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 a registered insectary
4 or plant pathogen propagation site for increase of population; or
5 experimental agents moved only under a permit issued by the department
6 and the United States department of agriculture and typically
7 maintained in a secured facility that is subject to inspection and
8 approval by the department or the United States department of
9 agriculture.

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

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

22 NEW SECTION. **Sec. 9.** INJUNCTIONS. The director may bring an
23 action to enjoin the violation of any provision of this chapter or rule
24 adopted under this chapter in the county where the violation has
25 occurred, notwithstanding the existence of any other remedies at law.

26 NEW SECTION. **Sec. 10.** VIOLATIONS--PENALTY. A person violating
27 the provisions of this chapter or the rules adopted under this chapter,

1 may be subject to a civil penalty, as determined by the director, in an
2 amount not more than one thousand dollars for each violation.

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

7 NEW SECTION. **Sec. 12.** CAPTIONS NOT LAW. Captions as used in this
8 chapter constitute no part of the law.

9 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act shall
10 constitute a new chapter in Title 17 RCW.

11 NEW SECTION. **Sec. 14.** If specific funding for the purposes of
12 this act, referencing this act by bill number, is not provided by June
13 30, 1991, in the omnibus appropriations act, this act is null and void.