

SENATE BILL REPORT

SB 5076

As Reported By Senate Committee On:
Agriculture & Rural Economic Development, February 26, 2007

Title: An act relating to agricultural operations, activities, and practices.

Brief Description: Increasing protections for agricultural operations, activities, and practices.

Sponsors: Senators Honeyford, Rasmussen, Schoesler, Clements, Shin, Sheldon and Parlette.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 1/22/07, 2/26/07 [DPS].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5076 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Hatfield, Vice Chair; Schoesler, Ranking Minority Member; Jacobsen and Morton.

Staff: Sam Thompson (786-7413)

Background: In a nuisance lawsuit, a plaintiff may sue a defendant property owner based on the claim that the defendant makes unreasonable use of his or her property to the detriment of the plaintiff's property. A plaintiff may, for example, seek to prevent or limit noise or odors.

The Washington Right to Farm Act provides that certain agricultural activities and forest practices are, if consistent with good practices and established prior to surrounding non-agricultural and non-forestry activities, presumed to be reasonable, and therefore have some protection from being prohibited in a nuisance lawsuit. It is suggested that these provisions should be clarified and enhanced.

Summary of Bill: Activities with limited protection from nuisance lawsuits under the Washington Right to Farm Act (Act) include agricultural and forest "operations," a term defined to include production of farm or forest products. The definition of "agricultural activity" in the Act is revised to include movement and storage of seed, fertilizers, conditioners, and plant protection products, in addition to their application. Plant pollination products are added to the foregoing list.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Agriculture & Rural Economic Development): Shellfish aquaculture activities are granted protection under the Washington Right to Farm Act. Technical

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.

corrections add forestry operations to the title and clarify applicability to movement or storage of pollinating insects.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This legislation addresses concerns recently raised in two nuisance lawsuits in Yakima County, one involving a fruit orchard and the other an apiary. In both cases, courts ruled that changes in agricultural uses were new uses that were not protected by the Right to Farm Act. As rural areas become increasingly urbanized, farmers need enhanced protection under the Act to cultivate new crops and use new agricultural methods.

OTHER: This legislation may need to clarify whether intensified agricultural uses such as intensified livestock feeding operations should be protected under the Right to Farm Act.

Persons Testifying: PRO: Senator Honeyford, prime sponsor; Jack Field, Washington Cattlemen's Association; Jim Armstrong, Spokane County Conservation District.

OTHER: Kaleen Cottingham, Futurewise.