
HOUSE BILL 1165

State of Washington

66th Legislature

2019 Regular Session

By Representatives Orwall, Dent, Blake, Fitzgibbon, and Doglio

Read first time 01/16/19. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

1 AN ACT Relating to encouraging low-water landscaping practices as
2 a drought alleviation tool; adding a new section to chapter 64.38
3 RCW; adding a new section to chapter 64.34 RCW; adding a new section
4 to chapter 64.90 RCW; adding a new section to chapter 39.35D RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) Water is a finite resource whose importance is heightened
9 during the periodic drought conditions and increased wildfire risk
10 that the state experiences;

11 (b) The maintenance of lawns of green grass during the summer
12 months for aesthetic purposes can be responsible for a noteworthy
13 portion of summer water use by households; and

14 (c)(i) In the event of a drought, state law already grants
15 extraordinary powers to the department of ecology to manage water
16 resources and provides for other policy responses to encourage
17 efficient use of the state's limited water supplies;

18 (ii) However, in certain instances, property association rules do
19 not take into account the public goal of making efficient use of
20 water supplies while also protecting properties from wildfire. These
21 association rules can prohibit private property owners from deciding

1 to use low-water plants or other low-water landscaping practices in
2 place of grass lawns. Association rules can also limit the use of
3 landscaping materials that are both drought resistant and fire
4 ignition resistant, making it difficult to create fire safe, drought
5 resistant landscapes and establish defensible space. Similar laws
6 also sometimes prohibit private property owners from allowing their
7 grass to go dormant and brown.

8 (2) (a) Therefore, it is the intent of the legislature to empower
9 private property owners and remove an obstacle to water use
10 efficiency by prohibiting unreasonable homeowner association, common
11 interest ownership association, and condominium association
12 restrictions that limit private property owners' ability to deploy
13 low-water landscaping techniques, while also ensuring private
14 property owners' ability to create fire safe landscapes.

15 (b) It is also the intent of the legislature to encourage the use
16 of landscaping design techniques that meet the highest standards for
17 water efficiency in the design and construction of state-funded
18 buildings.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38
20 RCW to read as follows:

21 (1) The governing documents may not prohibit the installation of
22 drought resistant landscaping or wildfire ignition resistant
23 landscaping. However, the governing documents may include reasonable
24 rules regarding the placement and aesthetic appearance of drought
25 resistant landscaping or wildfire ignition resistant landscaping, as
26 long as the rules do not render the use of drought resistant
27 landscaping or wildfire ignition resistant landscaping unreasonably
28 costly or otherwise effectively infeasible.

29 (2) If a property is located within the geographic designation of
30 an order of a drought condition issued by the department of ecology
31 under RCW 43.83B.405, an association may not sanction or impose a
32 fine or assessment against an owner, or resident on the owner's
33 property, for reducing or eliminating the watering of vegetation or
34 lawns for the duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or
36 restrict the establishment and maintenance of a fire buffer within
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any
4 noninvasive vegetation adapted to arid or dry conditions, stone, or
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed
7 by the national fire protection association, which encourages local
8 solutions for wildfire safety by involving homeowners, community
9 leaders, planners, developers, firefighters, and others in the effort
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive
13 vegetation, that do not readily ignite from a flame or other ignition
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a
16 building ignition zone.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 64.34
18 RCW to read as follows:

19 (1) The declaration of a condominium and any bylaws, rules, and
20 regulations adopted by the association may not prohibit the
21 installation of drought resistant landscaping or wildfire ignition
22 resistant landscaping. However, the declaration or bylaws, rules, and
23 regulations may include reasonable rules regarding the placement and
24 aesthetic appearance of drought resistant landscaping or wildfire
25 ignition resistant landscaping, as long as the rules do not render
26 the use of drought resistant landscaping or wildfire ignition
27 resistant landscaping unreasonably costly or otherwise effectively
28 infeasible.

29 (2) If a property is located within the geographic designation of
30 an order of a drought condition issued by the department of ecology
31 under RCW 43.83B.405, an association may not impose a fine or
32 assessment against an owner, or resident on the owner's property, for
33 reducing or eliminating the watering of vegetation or lawns for the
34 duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or
36 restrict the establishment and maintenance of a fire buffer within
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any
4 noninvasive vegetation adapted to arid or dry conditions, stone, or
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed
7 by the national fire protection association, which encourages local
8 solutions for wildfire safety by involving homeowners, community
9 leaders, planners, developers, firefighters, and others in the effort
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive
13 vegetation, that do not readily ignite from a flame or other ignition
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a
16 building ignition zone.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90
18 RCW to read as follows:

19 (1) The declaration of a common interest ownership and any
20 governing documents adopted by an association may not prohibit the
21 installation of drought resistant landscaping or wildfire ignition
22 resistant landscaping. However, the declaration or governing
23 documents may include reasonable rules regarding the placement and
24 aesthetic appearance of drought resistant landscaping or wildfire
25 ignition resistant landscaping, as long as the rules do not render
26 the use of drought resistant landscaping or wildfire ignition
27 resistant landscaping unreasonably costly or otherwise effectively
28 infeasible.

29 (2) If a property is located within the geographic designation of
30 an order of a drought condition issued by the department of ecology
31 under RCW 43.83B.405, an association may not impose a fine or
32 assessment against an owner, or resident on the owner's property, for
33 reducing or eliminating the watering of vegetation or lawns for the
34 duration of the drought condition order.

35 (3) Nothing in this section may be construed to prohibit or
36 restrict the establishment and maintenance of a fire buffer within
37 the building ignition zone.

38 (4) The definitions in this subsection apply throughout this
39 section unless the context clearly requires otherwise.

1 (a) "Building ignition zone" means a building and surrounding
2 area up to two hundred feet from the foundation.

3 (b) "Drought resistant landscaping" means the use of any
4 noninvasive vegetation adapted to arid or dry conditions, stone, or
5 landscaping rock.

6 (c) "Firewise" means the firewise communities program developed
7 by the national fire protection association, which encourages local
8 solutions for wildfire safety by involving homeowners, community
9 leaders, planners, developers, firefighters, and others in the effort
10 to protect people and property from wildfire risks.

11 (d) "Wildfire ignition resistant landscaping" includes:

12 (i) Any landscaping tools or techniques, or noninvasive
13 vegetation, that do not readily ignite from a flame or other ignition
14 source; or

15 (ii) The use of firewise methods to reduce ignition risk in a
16 building ignition zone.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 39.35D
18 RCW to read as follows:

19 (1)(a) The legislature intends to encourage the use of
20 landscaping design techniques that meet the highest standards for
21 water efficiency in the design and construction of state-funded
22 buildings. Except as provided in subsection (2) of this section, any
23 public agency, public school district, or other entity undertaking a
24 major facility project subject to the requirements of RCW 39.35D.030
25 or 39.35D.040 are encouraged to design and construct such projects to
26 receive all practical water efficient landscaping credits available
27 under the United States green building council rating system,
28 international green construction code, other nationally recognized
29 consensus standard, or the Washington sustainable school design
30 protocol, as each standard existed on the effective date of this
31 section. Entities undertaking major facility projects may consider
32 costs and potential benefits when determining the practicality of
33 incorporating water efficient landscaping measures into the design
34 and construction of the projects.

35 (b) Water efficient landscaping techniques may include:

36 (i) Reducing or eliminating the use of potable water for
37 irrigation; and

38 (ii) Configuring irrigation and sprinkler systems to avoid
39 spraying water directly on buildings, sidewalks, or other hardscapes.

1 (2) This section does not apply to athletic fields or other
2 project elements that are eligible for exclusion from water efficient
3 landscaping standards under either the United States green building
4 council rating system, international green construction code, other
5 nationally recognized consensus standard, or the Washington
6 sustainable school design protocol, as each standard existed on the
7 effective date of this section.

8 (3)(a) Nothing in this section may prohibit or restrict the use
9 of wildfire ignition resistant landscaping, including the
10 establishment and maintenance of a fire buffer in the building
11 ignition zone, in the design and construction of major facility
12 projects subject to the requirements of RCW 39.35D.030 or 39.35D.040.

13 (b) The definitions in this subsection (3)(b) apply throughout
14 this subsection unless the context clearly requires otherwise.

15 (i) "Building ignition zone" means a building and surrounding
16 area up to two hundred feet from the foundation.

17 (ii) "Firewise" means the firewise communities program developed
18 by the national fire protection association, which encourages local
19 solutions for wildfire safety by involving homeowners, community
20 leaders, planners, developers, firefighters, and others in the effort
21 to protect people and property from wildfire risks.

22 (iii) "Wildfire ignition resistant landscaping" includes:

23 (A) Any landscaping tools or techniques, or noninvasive
24 vegetation, that do not readily ignite from a flame or other ignition
25 source; or

26 (B) The use of firewise methods to reduce ignition risk in a
27 building ignition zone.

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