CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE SENATE BILL 5253**

Chapter 278, Laws of 2021

67th Legislature

2021 Regular Session

POLLINATOR HEALTH—VARIOUS PROVISIONS

EFFECTIVE DATE: July 25, 2021

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| Passed by the Senate April 14, 2021  Yeas 48 Nays 0  DENNY HECK  **President of the Senate**  Passed by the House April 7, 2021  Yeas 97 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives** | CERTIFICATE  I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5253** as passed by the Senate and the House of Representatives on the dates hereon set forth.  BRAD HENDRICKSON  Secretary |
| Approved May 12, 2021 2:59 PM | May 12, 2021 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SECOND SUBSTITUTE SENATE BILL 5253**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Liias, Warnick, Das, Dhingra, Hasegawa, Hunt, Lovelett, Rolfes, Saldaña, Van De Wege, and Wagoner)

AN ACT Relating to implementing the recommendations of the pollinator health task force; amending RCW 43.23.300, 17.24.081, 77.12.058, and 89.08.620; adding a new section to chapter 43.23 RCW; adding a new section to chapter 17.21 RCW; adding a new section to chapter 28B.30 RCW; adding a new section to chapter 39.04 RCW; adding a new section to chapter 89.08 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The purpose of this act is to implement the recommendations of the pollinator health task force created by section 3, chapter 353, Laws of 2019, entitled "Recommendations of the Pollinator Health Task Force - for Pollinator Health in Washington" (November 2020).

(2) The task force provided recommendations to help prioritize and enact policy changes for pollinators in Washington. The recommendations are organized under five broad categories: (a) Habitat; (b) pesticides; (c) education; (d) managed pollinators; and (e) research.

(3) The task force met for the first time the same week that the Asian giant hornet was first discovered in Washington and the week after the Houdini fly was also reported for the first time in Washington. Asian giant hornets primarily hunt honey bees and destroy entire honey bee hives. The Houdini fly threatens native mason bee populations as well as managed mason bees. Washington is home to over 400 different species of native bees, 65 species of butterflies, as well as moths, wasps, beetles, flies, and hummingbirds. The loss of pollinators, managed and unmanaged, can lead to decreased yields of many fruits, nuts, and vegetables. Washington is currently the top producer in the United States of apples, sweet cherries, alfalfa, blueberries, and pears. In Washington state, honey bees and other pollinators are responsible for the production of tree fruits, small fruits, and other crops.

(4) The legislature intends by this act to implement various recommendations from the pollinator health task force to protect and expand the habitat upon which pollinators depend, by providing technical and financial assistance to public and private landowners, and by coordinating with state agencies and local governments in promoting practices to ensure sustainable, healthy populations of managed and native pollinators.

NEW SECTION. **Sec.**  A new section is added to chapter 43.23 RCW to read as follows:

(1) The department shall create and chair a pollinator health task force. The department shall appoint the members of the task force, which must include, but is not limited to, representatives of the following interests, organizations, and state agencies:

(a) The conservation commission;

(b) The department of natural resources;

(c) The department of fish and wildlife;

(d) The state parks and recreation commission;

(e) The Washington state department of transportation;

(f) The state noxious weed control board;

(g) The tree fruit industry;

(h) The seed industry;

(i) The berry industry;

(j) Other agricultural industries dependent upon pollinators;

(k) Washington State University;

(l) Pesticide distributors and applicators;

(m) Conservation organizations;

(n) Organizations representing beekeepers or apiarists;

(o) A member of the public from west of the crest of the Cascade mountains; and

(p) A member of the public from east of the crest of the Cascade mountains.

(2) One or more representatives of Washington tribes must also be invited to participate on the task force.

(3) One youth representative from an organization that encourages students to engage in agricultural education must also be invited to participate on the task force when available.

(4) The task force shall build upon existing pollinator research and pollinator habitat plans at the national and state level including, but not limited to, the state-managed pollinator plan, to assist with the development of an implementation plan to implement the state pollinator health strategy.

(5) The task force shall assist, as practicable, with implementation of the recommendations of the task force submitted to the legislature in November 2020.

(6) The department shall provide the implementation plan to the appropriate committees of the senate and house of representatives by December 31, 2021, in compliance with RCW 43.01.036. The implementation plan must include the task force's evaluation and development of protocols that would increase communications between beekeepers, farmers and growers, and pesticide applicators including, but not limited to, education and outreach to beekeepers, farmers and growers, and pesticide applicators.

(7) The department shall provide information related to implementation of the state pollinator health strategy and a recommendation of whether to extend the task force beyond January 1, 2024, to the appropriate committees of the senate and house of representatives by December 1, 2022, in compliance with RCW 43.01.036.

(8) This section expires January 1, 2024.

**Sec.**  RCW 43.23.300 and 2019 c 353 s 2 are each amended to read as follows:

(1) The department shall establish a program to promote and protect pollinator habitat and the health and sustainability of pollinator species. As funds are made available, the program must provide technical and financial assistance to state agencies, local governments, and private landowners to implement practices that promote habitat for ((~~managed~~)) all pollinators, including native species, as well as beekeeper and grower best management practices. The program must be administered in coordination with the apiary program established in chapter 15.60 RCW, the honey bee commission authorized in chapter 15.62 RCW, and programs administered by the conservation commission and conservation districts.

(2) Subject to the availability of funds appropriated for this specific purpose, and in consultation with the department of fish and wildlife, the department must:

(a) Review, in consultation with Washington State University, education needs related to pollinator education and develop a plan that outlines the goals related to pollinator education and the necessary partners, personnel, and other resources;

(b) Evaluate and complete an analysis of critical impacts and needed best management practices for managed and wild pollinators. The department shall lead this effort in partnership with Washington State University, and in collaboration with the department of fish and wildlife and the state conservation commission. The effort must utilize the framework established in the state's managed pollinator protection plan as a guide for formal recommendations and education opportunities. The analysis must address food insecurities, habitat loss, virus and disease, pests, and pesticides, which may play a role in pollinator health decline. The department shall make the resources produced pursuant to this subsection available to the public on the department's website, as well as through Washington State University and the state's conservation districts;

(c) Document, in consultation with Washington State University, the bee species within the state and map their distributions as practicable;

(d) Provide economic and environmental impacts of weed listing and categorization on pollinator health to county noxious weed control boards in consultation with the state noxious weed control board and annually submit a report to the noxious weed control board describing pollinator health issues;

(e) Provide materials, where practicable and in consultation with Washington State University, about certification programs that support pollinator health, biodiversity, and low-impact pesticide application to the public;

(f) Educate the public through plant nurseries about the necessity for blooming nectar plants to be available to wild and managed pollinators throughout their respective active seasons;

(g) Survey registered beekeepers to determine whether the current apiary program should be expanded to include apiary inspections or registration of apiary yards;

(h) Continue and maintain partnership with federal agencies and neighboring states to promote and enhance the implementation of the national strategy to promote the health of honey bees and improve pollinator health;

(i) Increase the availability of pollinator-related resources on the department's website, as practicable, and other state agencies' websites as appropriate;

(j) Review guidelines on state-managed lands to protect native pollinators and improve transparency for state-managed land areas which may permit managed honey bees so that impacts to wild pollinators from honey bees may be minimized; and

(k) In consultation with the department of revenue, review the open space taxation act and provide recommendations to the legislature, in compliance with RCW 43.01.036, on options to include pollinator habitat in the current open space property tax classification.

NEW SECTION. **Sec.**  A new section is added to chapter 17.21 RCW to read as follows:

(1) The department shall continue to evaluate and update, as necessary, pesticide regulatory and education programs focused on measures to protect pollinator health. This work by the department, when appropriate, must be coordinated with Washington State University pesticide education programs to limit duplication and ensure consistent information sharing.

(2) Subject to the availability of amounts appropriated for this specific purpose, and in consultation with the department of fish and wildlife with regard to considerations for native pollinator species, the department must:

(a) Evaluate and adapt pesticide training and drift reduction technical assistance programs to include up-to-date protection measures for pollinators;

(b) Support Washington State University's pesticide education programs continued incorporation of pollinator protection measures during their training and certification classes, and coordinate on presented research, new protection measures, technological advancements, and any other significant science-based information;

(c) Coordinate with pollinator health staff in the department and at Washington State University to conduct investigations and share annual findings from pesticide-related investigations with the pollinator health task force;

(d) Evaluate and, if necessary, update the pesticide civil penalty matrix related to pollinator death or damage due to the misuse of pesticides and ensure pollinator health protections are included;

(e) When possible, the department must provide credits for pesticide courses focused on pollinator protection measures.

(3) By December 31, 2021, the department shall provide a report to the appropriate committees of the senate and house of representatives, in compliance with RCW 43.01.036, that includes recommendations for measures to mitigate the risks of harm to bees and other pollinators from the use of neonicotinoid pesticides and treated seeds. The department shall evaluate and incorporate the reviews scheduled for completion by the United States environmental protection agency during 2021, including recommended mitigation measures from that agency. The department shall also review neonicotinoid pesticide use restrictions and labeling requirements adopted in other states and include in the report any recommendations for adoption of similar requirements in this state.

**Sec.**  RCW 17.24.081 and 1991 c 257 s 12 are each amended to read as follows:

It shall be unlawful for a person to:

(1) Sell, offer for sale, or distribute a noxious weed or a plant or plant product or regulated article infested or infected with a plant pest declared by rule to be a threat to the state's forest, agricultural, horticultural, floricultural, or beekeeping industries or environment;

(2) Knowingly receive a noxious weed, or a plant, plant product, bees, bee hive or appliances, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment within this state, in violation of the provisions of this chapter or the rules adopted under this chapter;

(3) Fail to immediately notify the department and isolate and hold the noxious weed, bees, bee hives or appliances, plants or plant products, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department, where the item has been received without knowledge of the violation and the receiver has become subsequently aware of the potential problem;

(4) Knowingly conceal or willfully withhold available information regarding an infected or infested plant, plant product, regulated article, or noxious weed;

(5) Introduce or move into this state, or to move or dispose of in this state, a plant, plant product, or other item included in a quarantine, except under rules as may be prescribed by the department, after a quarantine order has been adopted under this chapter against a place, nursery, orchard, vineyard, apiary, other agricultural establishment, county of this state, another state, territory, or a foreign country as to a plant pest, bee pest, or noxious weed or genetically engineered plant or plant pest organism, until such quarantine is removed;

(6) Introduce or move nonnative managed bumble bees into this state to be used in open-field agricultural use.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.30 RCW to read as follows:

The Washington State University extension program must develop a pollinator extension education and outreach program and develop a statewide, science-based, pollinator education plan to educate beekeepers, agricultural producers, land managers, licensed pesticide applicators, other professionals, and the public. The plan should emphasize pollinator best management practices for both native and managed species.

NEW SECTION. **Sec.**  A new section is added to chapter 39.04 RCW to read as follows:

If a public works project includes landscaping, at least 25 percent of the planted area must be pollinator habitat to the extent practicable. For purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees. The department of agriculture, in consultation with the conservation commission and the department of fish and wildlife, must develop a list of native forage plants that are pollen-rich or nectar-rich and beneficial for all pollinators, including honey bees.

**Sec.**  RCW 77.12.058 and 2019 c 353 s 8 are each amended to read as follows:

(1) The department must implement practices necessary to maintain pollinator habitat on department-owned and managed agricultural and grazing lands where practicable. ((~~For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department.~~))

(2) The department must evaluate various restoration techniques with the goal of improving habitat for native pollinators. The department must update its riparian habitat recommendations to encourage development of pollinator habitat where practicable when making habitat improvements or for riparian restoration.

(3) For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department.

**Sec.**  RCW 89.08.620 and 2020 c 351 s 4 are each amended to read as follows:

(1) When prioritizing grant recipients, the commission, in consultation with the department of agriculture, Washington State University, the department of fish and wildlife, and the United States department of agriculture natural resources conservation service, shall seek to maximize the benefits of the grant program by leveraging other state, nonstate, public, and private sources of money. The primary metrics used to rank grant applications must be made public by the commission.

(2) The grant program must prioritize or weight projects based on consideration of the individual project's ability to:

(a) Increase the quantity of organic carbon in topsoil through practices including, but not limited to, cover cropping, no-till and minimum tillage conservation practices, crop rotations, manure application, biochar application, compost application, and changes in grazing management;

(b) Increase the quantity of organic carbon in aquatic soils;

(c) Intentionally integrate trees, shrubs, seaweed, or other vegetation into management of agricultural and aquacultural lands, with preference for native vegetation where practicable and appropriate;

(d) Reduce or avoid carbon dioxide equivalent emissions in or from soils;

(e) Reduce nitrous oxide and methane emissions through changes to livestock or soil management; and

(f) Increase usage of precision agricultural practices.

(3) The commission shall develop and approve a prioritization metric to guide the distribution of funds appropriated by the legislature for this purpose, with the goal of producing cost-effective carbon dioxide equivalent impact benefits.

(4) Applicants that create riparian buffers along waterways, or otherwise benefit fish habitat, must receive an enhanced prioritization compared to other grant applications that perform similarly under the prioritization metrics developed by the commission.

(5)(a) Applicants that create or maintain pollinator habitat must receive an enhanced prioritization compared to other grant applications that perform similarly under the prioritization metrics developed by the commission.

(b) For the purposes of this subsection, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department of agriculture.

(6) The commission shall downgrade a specific grant proposal within its prioritization metric if the proposal is expected to cause significant environmental damage to fish and wildlife habitat.

NEW SECTION. **Sec.**  A new section is added to chapter 89.08 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission is authorized to develop an ongoing small grants program to provide funding to the conservation districts to educate residents and community groups in urban, suburban, and rural nonfarm areas about the value of habitat for both managed and native pollinators, and to provide the necessary technical and financial assistance and materials to create it.

(2) Educational efforts should include the benefits of habitat diversity, especially pollen-rich and nectar-rich flowering forbs and shrubs. Preference for pollinator plants should be given to native plants or noninvasive, nonnative plants.

(3) Planting projects should provide diverse native or nonnative, noninvasive plants of high quality for pollinator foraging, nesting, and overwintering, as determined by site suitability. Options may include, but are not limited to, bee or eco-lawns, flowering meadow gardens, xeriscaping, shrub plantings, tree plantings, rain gardens, riparian restoration, and other pollinator-friendly landscaping.

(4) Criteria to rank applicants should include a detailed budget demonstrating funding needs, resource concerns addressed, value to at-risk native pollinators, multiple-use benefits of habitat, planned project longevity, and plans for long-term maintenance.

**--- END ---**

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.