

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

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**

Approved May 12, 2021 2:59 PM

JAY INSLEE

Governor of the State of Washington

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

FILED

May 12, 2021

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5253

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 Lias, Warnick, Das, Dhingra, Hasegawa, Hunt, Lovelett, Rolfes, Saldaña, Van De Wege, and Wagoner)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to implementing the recommendations of the
2 pollinator health task force; amending RCW 43.23.300, 17.24.081,
3 77.12.058, and 89.08.620; adding a new section to chapter 43.23 RCW;
4 adding a new section to chapter 17.21 RCW; adding a new section to
5 chapter 28B.30 RCW; adding a new section to chapter 39.04 RCW; adding
6 a new section to chapter 89.08 RCW; creating a new section; and
7 providing an expiration date.

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

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

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

19 (3) The task force met for the first time the same week that the
20 Asian giant hornet was first discovered in Washington and the week
21 after the Houdini fly was also reported for the first time in

1 Washington. Asian giant hornets primarily hunt honey bees and destroy
2 entire honey bee hives. The Houdini fly threatens native mason bee
3 populations as well as managed mason bees. Washington is home to over
4 400 different species of native bees, 65 species of butterflies, as
5 well as moths, wasps, beetles, flies, and hummingbirds. The loss of
6 pollinators, managed and unmanaged, can lead to decreased yields of
7 many fruits, nuts, and vegetables. Washington is currently the top
8 producer in the United States of apples, sweet cherries, alfalfa,
9 blueberries, and pears. In Washington state, honey bees and other
10 pollinators are responsible for the production of tree fruits, small
11 fruits, and other crops.

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

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.23
20 RCW to read as follows:

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

- 25 (a) The conservation commission;
- 26 (b) The department of natural resources;
- 27 (c) The department of fish and wildlife;
- 28 (d) The state parks and recreation commission;
- 29 (e) The Washington state department of transportation;
- 30 (f) The state noxious weed control board;
- 31 (g) The tree fruit industry;
- 32 (h) The seed industry;
- 33 (i) The berry industry;
- 34 (j) Other agricultural industries dependent upon pollinators;
- 35 (k) Washington State University;
- 36 (l) Pesticide distributors and applicators;
- 37 (m) Conservation organizations;
- 38 (n) Organizations representing beekeepers or apiarists;

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

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

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

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

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

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

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

26 (7) The department shall provide information related to
27 implementation of the state pollinator health strategy and a
28 recommendation of whether to extend the task force beyond January 1,
29 2024, to the appropriate committees of the senate and house of
30 representatives by December 1, 2022, in compliance with RCW
31 43.01.036.

32 (8) This section expires January 1, 2024.

33 **Sec. 3.** RCW 43.23.300 and 2019 c 353 s 2 are each amended to
34 read as follows:

35 (1) The department shall establish a program to promote and
36 protect pollinator habitat and the health and sustainability of
37 pollinator species. As funds are made available, the program must
38 provide technical and financial assistance to state agencies, local
39 governments, and private landowners to implement practices that

1 promote habitat for ((~~managed~~)) all pollinators, including native
2 species, as well as beekeeper and grower best management practices.
3 The program must be administered in coordination with the apiary
4 program established in chapter 15.60 RCW, the honey bee commission
5 authorized in chapter 15.62 RCW, and programs administered by the
6 conservation commission and conservation districts.

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

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

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

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

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

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

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

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

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

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

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

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

23 NEW SECTION. Sec. 4. A new section is added to chapter 17.21
24 RCW to read as follows:

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

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

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

38 (b) Support Washington State University's pesticide education
39 programs continued incorporation of pollinator protection measures

1 during their training and certification classes, and coordinate on
2 presented research, new protection measures, technological
3 advancements, and any other significant science-based information;

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

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

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

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

26 **Sec. 5.** RCW 17.24.081 and 1991 c 257 s 12 are each amended to
27 read as follows:

28 It shall be unlawful for a person to:

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

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

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

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

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

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

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.30
22 RCW to read as follows:

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

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 39.04
31 RCW to read as follows:

32 If a public works project includes landscaping, at least 25
33 percent of the planted area must be pollinator habitat to the extent
34 practicable. For purposes of this section, "pollinator habitat" means
35 an area of land that is or may be developed as habitat beneficial for
36 the feeding, nesting, and reproduction of all pollinators, including
37 honey bees. The department of agriculture, in consultation with the
38 conservation commission and the department of fish and wildlife, must

1 develop a list of native forage plants that are pollen-rich or
2 nectar-rich and beneficial for all pollinators, including honey bees.

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

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

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

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

21 **Sec. 9.** RCW 89.08.620 and 2020 c 351 s 4 are each amended to
22 read as follows:

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

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

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

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

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

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

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

9 (f) Increase usage of precision agricultural practices.

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

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

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

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

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

31 NEW SECTION. Sec. 10. A new section is added to chapter 89.08
32 RCW to read as follows:

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

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

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

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

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.

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