

SENATE BILL REPORT

SHB 1954

**AS REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES,
MARCH 28, 1991**

Brief Description: Changing conditions and limitations on agricultural nuisances.

SPONSORS: House Committee on Agriculture & Rural Development (originally sponsored by Representatives Rayburn, Nealey, McLean, R. Johnson, Chandler, Kremen, D. Sommers, Ballard, Roland, Bowman, Grant, Inslee, Rasmussen and Sheldon).

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, Hansen, and Newhouse.

Staff: John Stuhlmiller (786-7446)

Hearing Dates: March 28, 1991

BACKGROUND:

The state officially adopted a nuisance (right-to-farm) statute in 1979 because agricultural activities on farmland in urbanizing areas were often subject to nuisance lawsuits. The Legislature recognized that these types of suits encourage or force the premature removal of land from agricultural uses.

Agricultural activity conducted on farmland is reasonable and does not constitute a nuisance if: (1) the activity does not have a substantial adverse effect on public health and safety; (2) the activity is consistent with good agricultural practices; and (3) the activity was established prior to surrounding nonagricultural activities. The public health and safety is not adversely affected and the agricultural activity is presumed to be a good agricultural practice if the activity is undertaken in conformity with federal, state, and local laws and rules.

SUMMARY:

Good agricultural practices may not be restricted as to the time of day or day or days of the week on which they may be conducted.

The definition of agricultural activity is changed from the activities associated with growing crops to the primary production of a farm product on a commercial farm and the

activities associated with that production, with a list of some of the acceptable practices enumerated.

A commercial farm is defined as a farm that qualifies as a commercial farm under federal census laws or rules, or is composed of the waters and lands used in the production of private sector cultured aquatic products.

Also, a definition of farm products is created which includes many agricultural products.

Appropriation: none

Revenue: none

Fiscal Note: none requested

SUMMARY OF PROPOSED SENATE AMENDMENT:

Several technical changes are made. Specific reference to the nuisance law not impairing any right to sue for damages is deleted.

The definition of commercial farm is replaced with a definition of a farm which is the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of agricultural products.

Farmland is defined as land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, marine shellfish, or other agricultural commodities.

Also, a definition of farm products is created which includes many agricultural products as well as livestock breeding, grazing, and the recreational use of horses.

TESTIMONY FOR:

Some farming practices need to be protected, and this bill will accomplish that goal. It is important to cover freshwater aquaculture in this bill.

TESTIMONY AGAINST:

All mention of pesticide drift should be removed from the bill.

TESTIFIED: Marlyta Deck, Washington State Cattlemen's Association (pro); Dedi Hitchens, Washington State Dairy Federation (pro); Jim Zimmerman, Trout Lodge Inc. (pro); Margaret Hue (con)