

2SHB 1952 - H AMD 402

By Representative Upthegrove

ADOPTED AS AMENDED 03/05/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C
4 RCW to read as follows:

5 (1)(a) Except as provided in this section, the proposed actions
6 contained in this section are categorically exempt from the
7 requirements of this chapter if the proposed action is located within
8 or outside an urban growth area designated under RCW 36.70A.110, and
9 the city or county in which the proposed action is located adopts an
10 exemption level consistent with this section. If a proposed action is
11 located in more than one city or county, the lower of the agencies'
12 adopted exemption levels controls regardless of which agency is the
13 lead agency.

14 (b) Any categorical exemption adopted by a city or county under
15 this section is subject to the rules of the department of ecology
16 adopted according to RCW 43.21C.110 that provide exceptions to the use
17 of categorical exemptions.

18 (2)(a) As part of adopting the exemption levels under this section,
19 a city or county shall confirm, by ordinance or resolution, that
20 adequate environmental analysis, protection, and mitigation for the
21 adverse environmental impacts from the specified levels of action are
22 provided by applicable local, state, or federal regulations. A city or
23 county adopting an ordinance or resolution under this subsection shall
24 provide written notice to all agencies with jurisdiction.

25 (b) If the confirmation made under (a) of this subsection relies in
26 part on existing regulations, including rules or laws, of another
27 agency with jurisdiction, the city or county shall provide written
28 notice to that agency and consider agency comments, and shall condition
29 its project approval on compliance with all such applicable
30 regulations.

1 (c) An ordinance or resolution adopted by a city or county under
2 (a) of this subsection may:

3 (i) Establish lower exemption levels for specific geographic areas
4 within the city or county; and

5 (ii) Specify varying exemption levels for the elements of the
6 natural or built environment that are included in the confirmation made
7 under (a) of this subsection.

8 (3)(a) Except as provided in subsection (1)(b) of this section, the
9 following types of construction are categorically exempt from the
10 requirements of this chapter if the proposed action is located within
11 an urban growth area designated under RCW 36.70A.110:

12 (i) The construction or location of single-family residential
13 developments of fifty dwelling units or fewer;

14 (ii) The construction or location of multifamily residential
15 developments of eighty dwelling units or fewer;

16 (iii) Excluding feed lots, the construction of a barn, loafing
17 shed, farm equipment storage building, produce storage or packing
18 structure, or similar agricultural structure, covering up to seventy-
19 five thousand square feet, and to be used only by the property owner or
20 the property owner's agent in the conduct of farming the property;

21 (iv) The construction of an office, school, commercial,
22 recreational, service, or storage building with thirty thousand or
23 fewer square feet of gross floor area, and with associated parking
24 facilities designed for one hundred automobiles or fewer;

25 (v) The construction of a parking lot designed for one hundred
26 automobiles or fewer; and

27 (vi) Any landfill or excavation of one thousand two hundred cubic
28 yards or fewer of disturbed area throughout the total lifetime of the
29 fill or excavation.

30 (b) If a city or county does not adopt an exemption level
31 consistent with this subsection, the exemption levels established by
32 rule by the department of ecology in accordance with RCW 43.21C.110
33 apply.

34 (4)(a) Except as provided in subsection (1)(b) of this section, the
35 following types of construction are categorically exempt from the
36 requirements of this chapter if the proposed action is located outside
37 an urban growth area designated under RCW 36.70A.110:

1 (i) The construction or location of single-family residential
2 developments of thirty-five dwelling units or fewer;

3 (ii) Excluding feed lots, the construction of a barn, loafing shed,
4 farm equipment storage building, produce storage or packing structure,
5 or similar agricultural structure, covering up to fifty thousand square
6 feet, and to be used only by the property owner or the property owner's
7 agent in the conduct of farming the property;

8 (iii) The construction of an office, school, commercial,
9 recreational, service, or storage building with twenty-one thousand or
10 fewer square feet of gross floor area, and with associated parking
11 facilities designed for seventy automobiles or fewer; and

12 (iv) Any landfill or excavation of eight hundred seventy-five cubic
13 yards or fewer of disturbed area throughout the total lifetime of the
14 fill or excavation.

15 (b) If a city or county does not adopt an exemption level
16 consistent with this subsection, the exemption levels established by
17 rule by the department of ecology in accordance with RCW 43.21C.110
18 apply.

19 (5) This section expires July 31, 2013.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21C RCW
21 to read as follows:

22 (1) The department of ecology shall initiate expedited rule making
23 under chapter 34.05 RCW to adopt categorical exemptions and exemption
24 levels consistent with section 1 of this act and this section.

25 (2)(a) Except as provided in (b) of this subsection, the exemption
26 levels adopted by the department of ecology may be lower or higher than
27 the exemption levels provided in section 1 of this act.

28 (b) If the department of ecology determines that a lower exemption
29 level is demonstrably necessary to achieve the goals of this chapter,
30 the department of ecology may adopt exemption levels that are lower
31 than the exemption levels provided in section 1 of this act. In no
32 circumstances may the exemption levels adopted by the department of
33 ecology under this section be lower than the exemption levels provided
34 in WAC 197-11-800 as it exists on the effective date of this section.

35 (c) The department of ecology may not use this section to adopt
36 rules concerning any issue not specifically addressed under this
37 section.

1 (3) All rules adopted by the department of ecology under this
2 section must be adopted and effective by July 31, 2013.

3 (4)(a) By July 31, 2012, the department of ecology shall provide a
4 report to the legislature concerning the progress of its rule making
5 initiated under this section.

6 (b) By July 31, 2013, the department of ecology shall provide a
7 report concerning the outcome of its rule making initiated under this
8 section, including the rationale used by the department of ecology in
9 determining exemption levels.

10 (c) The reports required under this subsection must be submitted to
11 the legislature consistent with RCW 43.01.036.

12 (5) This section expires July 31, 2014.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C RCW
14 to read as follows:

15 Temporary farmers markets or mobile food vendors on previously
16 developed sites covering up to thirty thousand square feet are
17 categorically exempt from the requirements of this chapter.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C RCW
19 to read as follows:

20 (1) The utility-related actions listed in subsection (2) of this
21 section are categorically exempt from the requirements of this chapter,
22 except for installation, construction, or alteration on lands covered
23 by water. The exemption includes installation and construction,
24 relocation when required by other governmental bodies, repair,
25 replacement, maintenance, operation, or alteration that does not change
26 the action from an exempt class.

27 (2) Except as provided in subsection (1) of this section, the
28 following are categorically exempt from the requirements of this
29 chapter:

30 (a) Installing electric facilities, lines, equipment, or
31 appurtenances, not including substations, with an associated voltage of
32 one hundred fifteen thousand volts or fewer;

33 (b) Building over existing distribution lines with transmission
34 lines of one hundred fifteen thousand volts or more; and

35 (c) Placing electric facilities, lines, equipment, or appurtenances
36 underground.

1 (3) The department of ecology may adopt additional categorical
2 exemptions for utility-related actions in accordance with RCW
3 43.21C.110.

4 NEW SECTION. **Sec. 5.** Any action taken by the department of
5 ecology to implement the provisions of this act must be accomplished
6 within existing resources."

7 Correct the title.

EFFECT: Allows a city or county to adopt certain categorical
exemptions created in the underlying bill and modifies the exemption
levels for categorical exemptions for actions that are both within or
outside an urban growth area;

Requires a city or county, prior to using the exemption levels
created by the bill, to confirm by ordinance or resolution that
adequate environmental analysis, protection, and mitigation for the
adverse environmental impacts are provided by applicable regulations;

Removes certain categorical exemptions from the underlying bill,
including removing all exemptions specific to jurisdictions that are
partially planning under the growth management act as well as removing
other exemptions for actions within or outside an urban growth area;

Creates an expiration date of July 31, 2013, for certain
categorical exemptions;

Requires the department of ecology (DOE) to initiate expedited rule
making to adopt certain categorical exemptions and exemption levels
created by the bill and permits the exemption levels to be lower or
higher than those created by the bill;

Requires the DOE to provide reports to the legislature concerning
the progress and outcome of the required rule making;

Creates a categorical exemption for certain utility-related actions
related to electricity facilities and lines and allows the DOE to adopt
other categorical exemptions for utility-related actions; and

Removes the section created in the underlying bill that required
public notice concerning categorically exempt activities.

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