

SENATE BILL REPORT

SB 5696

As Reported by Senate Committee On:
Agriculture, Water & Rural Economic Development, February 19, 2013

Title: An act relating to apiarists.

Brief Description: Providing limited civil immunity from liability for apiarists.

Sponsors: Senators Litzow and Mullet.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 2/18/13, 2/19/13 [DPS].

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5696 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hatfield, Chair; Brown, Hobbs, Honeyford, Ranking Member; Schoesler and Shin.

Staff: Diane Smith (786-7410)

Background: An apiarist is a person who keeps bees in Washington. A broker is a person who pollinates agricultural crops for a fee using hives that the broker does not own. The profession of bee keeping is regulated by the Department of Agriculture (Department) by means of the annual, mandatory registration of persons owning at least one hive, brokers, and apiarists from other states operating in Washington. There is a fee for registration and the registrant receives an apiarist identification number. The fees and any penalties collected for violations of the chapter are used for apiary-related activities of the Department and for funding research that the Director of the Department (director) may select upon the advice of the apiary advisory committee.

The apiary advisory committee is established by the director, meets at the director's call, and the members of the committee do not receive compensation other than reimbursement for travel expenses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

At common law, a person may be liable for damages in a civil law suit for unintentionally causing harm through acts of negligence, gross negligence, or recklessness as well through intentional acts. Immunity from this civil liability exists in Washington law but not for beekeeping activities.

For instance, Washington law has limited the liability of a landowner who allows the public to use the owner's land for recreational purposes without charge. In that circumstance, the landowner is liable only for injuries that the landowner intentionally causes. Likewise, volunteers providing medical aid at the scene of an emergency are not liable for civil damages if their conduct does not constitute gross negligence or willful or wanton misconduct.

By analogy to immunity from civil liability for personal injury or property damage, in a nuisance lawsuit, a plaintiff may sue a defendant property owner based on the claim that the defendant makes unreasonable use of their property to the detriment of the plaintiff's property. Agricultural activities have limited protection from nuisance lawsuits under the Washington Right to Farm Act (Act). These agricultural activities include keeping of bees for pollination of agricultural products and gardens. When beekeeping practices are conducted in a manner consistent with good practices and established prior to surrounding non-agricultural and non-forestry activities, beekeeping is protected against nuisance lawsuits. However, the Act does not affect or impair any right to sue for damages.

Summary of Bill (Recommended Substitute): The civil liability of apiarists and brokers is limited upon the director's adoption of rules that establish best management practices for the operation of apiaries.

Once these rules are adopted, a registered apiarist or broker who operates in a reasonable manner in conformance with these rules is immune from civil liability for personal injury or property damage occurring in connection with certain, listed apiary activities. This limitation on civil liability does not extend to gross negligence or willful or wanton misconduct.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute): As part of the rule making for best practices, the Department must provide for setbacks made upon the written request of anyone having an allergy to bee stings who owns property within one-quarter mile of the location of the hives.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: There are more and more hobbyists and craftspeople keeping bees in urban areas. Some local jurisdictions have established rules that must be followed. Honeybees typically do not attack unless their

intruder response is triggered. This usually only happens when their hive is threatened or the honeybee receives direct, hostile contact from a human. The other black and yellow, flying, stinging insects are actually the culprits in most situations but honeybees often receive the blame. A typical homeowners' insurance policy does not cover beekeeping. To get this coverage can cost between \$500 to \$700 per year, usually out of reach for the non-commercial beekeeper.

Persons Testifying: PRO: Mark Emrich, WA State Beekeepers.