

HOUSE BILL REPORT

HB 1954

*As Reported By House Committee on:
Agriculture & Rural Development*

Title: An act relating to agricultural nuisances.

Brief Description: Changing conditions and limitations on agricultural nuisances.

Sponsor(s): Representatives Rayburn, Nealey, McLean, R. Johnson, Chandler, Kremen, D. Sommers, Ballard, Roland, Bowman, Grant, Inslee, Rasmussen and Sheldon.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, February 28, 1991, DPS.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *That Substitute House Bill No. 1954 be substituted therefor, and the substitute bill do pass.*
Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Grant; R. Johnson; Lisk; McLean; Rasmussen; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: State law declares that an agricultural activity conducted on farmland is reasonable and does not constitute a nuisance under the following circumstances: (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 before 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 of Substitute Bill: The exemption granted by law to agricultural activities from regulation as nuisances is modified. The exemption applies to the primary production of certain farm products on a commercial farm and the activities associated with that production. The "commercial farm" on which the activities are exempt is one which

qualifies as such under federal census laws or rules or is composed of the waters and lands used in the production of private sector cultured aquatic products. The farm products, the production of which are exempt, are the plants and animals useful to humans for use, either directly or when processed, as ornamentation or as food, feed for animals, fiber, or fur.

Nonexclusive lists of the associated agricultural activities and farm products which qualify for the exemption are provided. This exemption does not impair any right to sue for damages.

Substitute Bill Compared to Original Bill: The substitute bill expressly states that the exemption from nuisance law provided to certain agricultural activities does not impair a right to sue for damages. The substitute bill also adds fish products to the list of farm products and harvesting operations to the list of agricultural activities covered by the bill.

Fiscal Note: Not requested.

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

Testimony For: (1) The bill supports farmers' right to farm. It provides protection against frivolous law suits. (2) If a person violates a law, the person is still liable for the damages.

Testimony Against: None.

Witnesses: Jim Zimmerman, Trout Lodge Incorporated (in favor); and Bruce Ellingson, Washington Association of Apple Growers.