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**SUBSTITUTE SENATE BILL 5096**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Hansen, Anderson, Newhouse, Conner, Bailey, Matson, Patterson, Amondson, Sellar, Bauer, McMullen and L. Smith).

Read first time February 20, 1991.

1       AN ACT Relating to the duties and responsibilities of the  
2 department of agriculture; amending RCW 15.04.010; adding new sections  
3 to chapter 15.04 RCW; adding a new section to chapter 34.05 RCW; and  
4 declaring an emergency.

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

6       NEW SECTION.   **Sec. 1.** A new section is added to chapter 15.04 RCW  
7 to read as follows:

8       The history, economy, culture, and the future of Washington state  
9 largely involves agriculture, which is vital to the economic well-being  
10 of the state. The legislature finds that farmers and ranchers are  
11 responsible stewards of the land, but are increasingly subjected to  
12 complaints and unwarranted restrictions that encourage, and even force,  
13 the premature removal of lands from agricultural uses.

14       The legislature further finds that it is now in the overriding  
15 public interest that support for agriculture be clearly expressed and

1 that adequate protection be given to agricultural lands, uses,  
2 activities, and operations.

3 The legislature further finds that the department of agriculture  
4 has a duty to promote and protect agriculture and its dependent rural  
5 community in Washington state.

6 It is the purpose of sections 3 through 5 of this act to provide  
7 the department with the authority and responsibility to seek the  
8 continued viability of agriculture and its dependent rural community in  
9 this state. This effort is to promote the public welfare of the state  
10 of Washington by assuring the viability of farm operations, preventing  
11 the erosion of the tax base in rural areas, and enhancing the financial  
12 stability of agriculture and its dependent rural community in this  
13 state. To carry out this duty, it is necessary to develop a program to  
14 examine the impact of state laws and rules on agriculture. This review  
15 procedure shall be implemented to provide a means through which those  
16 involved in agriculture may participate in the development of rules,  
17 policies, standards, directives, and enforcement practices relating to  
18 agricultural activities. The results and recommendations of such an  
19 examination shall be considered by all agencies of this state.

20 **Sec. 2.** RCW 15.04.010 and 1961 c 11 s 15.04.010 are each amended  
21 to read as follows:

22 As used in this title except where otherwise defined:

23 (1) "Agriculture" means the commercial production of food and fiber  
24 and includes but is not limited to the production of freshwater  
25 aquacultural, horticultural, viticultural, floricultural, dairy,  
26 poultry, apiary, vegetable, herb, or animal products or of berries,  
27 grain, hay, straw, turf, seed, Christmas trees, or livestock.

28 (2) "Agricultural activity" has the meaning defined in RCW  
29 7.48.310.

1       (3) "Department" means the department of agriculture.

2       (4) "Director" means the director of agriculture.

3       (5) "The farm" means land, freshwater ponds, freshwater culturing  
4 and growing facilities, buildings, and machinery devoted primarily to  
5 the production of agricultural commodities for commercial purposes.

6       (6) "Person" includes any individual, firm, corporation, trust,  
7 association, cooperative, copartnership, society, any other  
8 organization of individuals, and any other business unit, device, or  
9 arrangement.

10       (7) "Dependent rural community" means those businesses that provide  
11 goods, materials, and services directly to the agricultural producer  
12 such as: Feed, seed, fertilizer, pesticides, pharmaceuticals,  
13 machinery, equipment, marketing, processing, conditioning storage, and  
14 custom hire operators.

15       NEW SECTION.   **Sec. 3.** A new section is added to chapter 15.04 RCW  
16 to read as follows:

17       The department shall seek to enhance, protect, and perpetuate the  
18 ability of the private sector to produce food and fiber. Additionally,  
19 the department shall seek to maintain the economic well-being of the  
20 agricultural industry and its dependent rural community in Washington  
21 state. In a manner consistent with this goal, the department shall  
22 initiate and administer the agricultural impact assessment review  
23 program created in sections 3 through 5 of this act.

24       NEW SECTION.   **Sec. 4.** A new section is added to chapter 15.04 RCW  
25 to read as follows:

26       There is hereby created an agricultural impact assessment. Such  
27 review shall consist of a comprehensive and ongoing review of proposed  
28 rules, directives, and enforcement practices that adversely impact

1 agriculture, and shall include economic impacts, overlapping agency  
2 jurisdiction, and conflicting requirements, cumulative effects of  
3 regulation, redress for inappropriate or excessive regulation, and  
4 other items deemed advisable. Additional review subjects may be  
5 submitted to the department during public hearings held each year in  
6 western, central, and eastern Washington locations for such purpose.

7 If, upon review by the department, existing or proposed rules,  
8 directives, policies, standards, and enforcement practices are found to  
9 have an adverse impact on agriculture, the department shall request  
10 that the appropriate agency or agencies minimize or eliminate the  
11 adverse impacts on agriculture. The affected agency or agencies shall  
12 consider the recommendations developed by the assessment process in  
13 reviewing existing or proposed rules, directives, policies, standards,  
14 and enforcement practices. Resulting changes shall then be reviewed by  
15 the department and the affected agency.

16 In conducting the agricultural impact assessment, the department  
17 shall:

18 (1) Consider constitutional rights and guarantees, including  
19 regulatory takings issues, and work to ensure that historic  
20 prerogatives are integral to the agricultural impact assessment review  
21 process such that property owners are protected from arbitrary and  
22 discriminatory action that diminishes the right of ownership and use of  
23 property.

24 (2) Review all changes to property access, while ensuring that all  
25 persons have the right of protection from unauthorized access to their  
26 property.

27 (3) Encourage the affected agency or agencies to ensure that all  
28 rules, directives, policies, standards, and enforcement practices  
29 acknowledge the diversity of agricultural land uses, activities, and  
30 operations and allow for variations caused by weather, soil type or

1 condition, specific crops or livestock raised, or management practices  
2 used.

3 (4) Encourage the affected agency or agencies to ensure that rules,  
4 whether existing or proposed, acknowledge and respect historic  
5 agricultural prerogatives and make no unreasonable or injurious demands  
6 upon agriculture.

7 (5) Review all rules, directives, and enforcement practices for any  
8 adverse economic impacts that limit the viability of agriculture such  
9 as requirements for special labor effort, additional equipment, unique  
10 facilities, training, or outside technical or professional support.

11 (6) Encourage the affected agency or agencies to ensure that all  
12 rules, directives, policies, standards, and enforcement practices do  
13 not restrict civil rights protections such as presumption of innocence.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 15.04 RCW  
15 to read as follows:

16 The department shall: (1) Submit an annual report to the  
17 appropriate committees of the house of representatives and the senate  
18 detailing the department's activities in regard to agricultural impact  
19 assessment. Such report shall include a compilation of all proposed  
20 review items and the disposition of each; and (2) establish a series of  
21 workshops to familiarize all affected agencies with the agricultural  
22 impact assessment review process in order to facilitate their  
23 compliance with such review process.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 34.05 RCW  
25 to read as follows:

26 At least forty-five days before the publication of the notice of  
27 hearing under RCW 34.05.320, the agency shall determine whether the  
28 rule has a potential for adversely impacting agriculture under the

1 guidelines established in section 4 of this act, and shall submit such  
2 rules to the department of agriculture for review under sections 3 and  
3 4 of this act.

4 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and shall take  
7 effect immediately.