

SENATE BILL 5096

State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr, Hansen, Anderson, Newhouse, Conner, Bailey, Matson, Patterson, Amondson, Sellar, Bauer, McMullen and L. Smith.

Read first time January 21, 1991. Referred to Committee on Agriculture & Water Resources.

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; and adding a new section to chapter 34.05 RCW.

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

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

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

13 The legislature further finds that it is now in the overriding
14 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 the agricultural community of
5 Washington state.

6 It is the purpose of sections 3 through 5 of this act to provide a
7 state agency with the authority and responsibility to seek the
8 continued viability of the agricultural community of this state. This
9 effort is to promote the public welfare of the state of Washington by
10 assuring the viability of farm operations, preventing the erosion of
11 the tax base in rural areas, and enhancing the financial stability of
12 the agricultural industry. To carry out this duty, it is necessary to
13 develop a program to examine the impact of state laws and rules on
14 agriculture. This review procedure shall be implemented to provide a
15 means through which the agricultural industry may participate in the
16 development of rules, policies, standards, directives, and enforcement
17 practices relating to agricultural activities. The results and
18 recommendations of such an examination shall be complied with by all
19 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 aquacultural,
25 horticultural, viticultural, floricultural, dairy, apiary, vegetable,
26 herb, or animal products or of berries, grain, hay, straw, turf, seed,
27 Christmas trees, or livestock.

28 (2) "Agricultural activity" includes, but is not limited to those
29 actions relating to the growing, harvesting, storage, disposal,

1 transporting, conditioning, processing, sale, and research and
2 development of all crops associated with agriculture, and shall include
3 conversion from one crop or support service to another.

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

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

6 (5) "The farm" means land, buildings and machinery devoted
7 primarily to the production of agricultural commodities for commercial
8 purposes.

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

13 (7) "Supporting facilities" include, but are not limited to, roads
14 and waterways, and storage, processing, conditioning, and sale
15 facilities within the state.

16 (8) "Supporting businesses" are those businesses that provide
17 goods, materials, and services directly to the agricultural producer
18 such as: Feed, seed, fertilizer, pesticides, machinery, equipment,
19 marketing, processing, storage, and custom hire operators.

20 NEW SECTION. Sec. 3. A new section is added to chapter 15.04 RCW
21 to read as follows:

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

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

3 There is hereby created an agricultural impact assessment. Such
4 review shall consist of a comprehensive and ongoing review of existing
5 and proposed rules, directives, and enforcement practices that
6 adversely impact agriculture, and shall include economic impacts,
7 overlapping agency jurisdiction, and conflicting requirements,
8 cumulative effects of regulation, redress for inappropriate or
9 excessive regulation, and other items deemed advisable. Additional
10 review subjects may be submitted to the department during public
11 hearings held each year in western, central, and eastern Washington
12 locations for such purpose.

13 If, upon review by the department, existing or proposed rules,
14 directives, policies, standards, and enforcement practices are found to
15 have an adverse impact on agriculture, the department shall request
16 that the appropriate agency or agencies minimize or eliminate the
17 adverse impacts on agriculture. Resulting changes shall then be
18 reviewed by the department and the affected agency. All existing and
19 proposed rules, directives, policies, standards, and enforcement
20 practices shall consider the recommendations developed by the
21 assessment process.

22 In conducting the agricultural impact assessment, the department
23 shall:

24 (1) Consider constitutional rights and guarantees, including
25 regulatory takings issues, and work to ensure that historic
26 prerogatives are integral to the agricultural impact assessment review
27 process such that property owners are protected from arbitrary and
28 discriminatory action that diminishes the right of use of property.

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

4 (3) Encourage the affected agency or agencies to ensure that all
5 rules, directives, policies, standards, and enforcement practices
6 acknowledge the diversity of agricultural land uses, activities, and
7 operations and allow for variations caused by weather, soil type or
8 condition, specific crops or livestock raised, or management practices
9 used.

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

14 (5) Encourage the affected agency or agencies to ensure that the
15 concept of "first-in-time, first-in-right" prevails wherever
16 agricultural operations, lands, activities, and uses are contested or
17 threatened.

18 (6) Review all rules, directives, and enforcement practices for any
19 adverse economic impacts that limit the viability of agriculture such
20 as requirements for special labor effort, additional equipment, unique
21 facilities, training, or outside technical or professional support.

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

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

27 The department shall: (1) Submit an annual report to the
28 appropriate committees of the house of representatives and the senate
29 detailing the department's activities in regard to agricultural impact

1 assessment. Such report shall include a compilation of all proposed
2 review items and the disposition of each; and (2) establish a series of
3 workshops to familiarize all affected agencies with the agricultural
4 impact assessment review process in order to facilitate their
5 compliance with such review process.

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

8 At least twenty days before the rule-making hearing at which the
9 agency receives public comment regarding adoption of a rule, the agency
10 shall determine whether the rule has a potential for adversely
11 impacting agriculture and shall submit such rules to the department of
12 agriculture for review under sections 3 and 4 of this act.