
HOUSE BILL 1953

State of Washington

55th Legislature

1997 Regular Session

By Representatives Regala, Anderson, Butler, Romero, Blalock and Sullivan

Read first time 02/14/97. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to protection and restoration of water quality;
2 adding a new chapter to Title 90 RCW; creating a new section; and
3 providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) Washington's waters and fisheries
6 resources are critical to the economic and environmental well-being of
7 this state's citizens. However, the state's water and fisheries
8 resources are seriously threatened from impacts caused by agricultural
9 practices. The legislature finds that these problems pose great
10 uncertainty for its citizens and in particular for those who depend on
11 these resources for their economic and environmental well-being. The
12 legislature further finds that these agricultural practices increase
13 the risk of federal or judicial interventions stemming from
14 noncompliance with state and federal laws.

15 (2) The legislature finds the following:

16 (a) Streamside buffers are essential for the protection and
17 restoration of salmon and shellfish habitat, other fisheries resources,
18 and water quality;

1 (b) In their natural state, streamside buffers provide many
2 valuable social and ecological services, including controlling erosion,
3 flooding, and storm water runoff, protecting water resources by
4 filtering pollutants, providing for ground water recharge, and
5 providing a habitat for many species of fish, shellfish, and wildlife;

6 (c) Streamside protection is currently provided on forestry and
7 urban lands through the forest practices and growth management acts,
8 whereas past and current farm and agricultural land use practices
9 continue to destroy or severely impact natural streamside buffers,
10 salmon habitat, water quality, and fisheries resources; and

11 (d) Buffers adjacent to waters of the state are essential to
12 protect and restore the productive capacity of salmon and shellfish
13 habitat and for the survival of fisheries resources.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Agricultural activities" means the production of crops or
17 livestock, or the farming, ranching, or grazing of domestic animals.

18 (2) "Department" means the Washington department of ecology.

19 (3) "Director" means the director of the Washington department of
20 ecology.

21 (4) "Farm and agricultural lands" means the same as defined in RCW
22 84.34.020(2).

23 (5) "Livestock" means the same as defined in RCW 16.50.110.

24 (6) "Person" means an individual, partnership, municipal
25 corporation, county, department, state or local governmental entity, or
26 any other organization of individuals.

27 (7) "Streamside buffer" means the area adjacent to aquatic systems
28 with flowing water, that contain both aquatic and terrestrial
29 ecosystems that mutually influence each other. For purposes of this
30 chapter, streamside buffer widths are consistent with ecosystem
31 standard B14A as approved in 1994 by the Washington state conservation
32 commission, unless otherwise administratively determined by the
33 department in consultation with the department of fish and wildlife
34 using the best available science. Streamside buffers may not exceed
35 more than twenty percent of the land controlled or owned by a person
36 who is affected by this chapter.

1 NEW SECTION. **Sec. 3.** (1) It is not intended that this chapter
2 repeal, abrogate, or impair any existing regulations, easements,
3 covenants, or deed restrictions. However, where this chapter imposes
4 greater restrictions, the provisions of this chapter prevail.

5 (2) This chapter establishes minimum requirements that must be
6 liberally construed to serve the purposes of this chapter. However, if
7 another provision of law conflicts with this chapter, that which
8 provides more protection to water quality and streamside buffers
9 applies unless specifically provided otherwise in this chapter.

10 (3) The department shall establish administrative rules as
11 necessary to implement this chapter.

12 NEW SECTION. **Sec. 4.** (1) Except as provided under subsections
13 (2) and (3) of this section, a person may not allow livestock, or
14 conduct agricultural activities on farm and agricultural lands, in the
15 state's surface waters or within the streamside buffers.

16 (2) The director may allow an exemption for the restrictions under
17 subsection (1) of this section if the director finds that:

18 (a) The livestock are located at a livestock crossing or watering
19 area that is designed, constructed, operated, and maintained to
20 minimize, to the fullest extent practicable, water pollution or impacts
21 to streamside buffers caused by livestock;

22 (b) The livestock or agricultural practices do not contribute to a
23 violation or impairment of, or prevent the maintenance and recovery of,
24 the applicable water quality standards and streamside buffer functions;
25 or

26 (c) An approved state or federal resource management plan has
27 attained state water quality standards and provides for the following
28 streamside buffer functions: Recruitment of large woody debris to the
29 stream, shade, bank integrity, root reinforcement, and runoff
30 filtration.

31 (3) The restrictions in subsection (1) of this section shall not
32 apply to the following activities:

33 (a) The harvesting of wild crops in a manner that is not injurious
34 to natural reproduction of such crops and does not require tilling of
35 soil, planting of crops, or alteration of the streamside buffer by
36 changing existing topography, water conditions, or water resources;

37 (b) Forest practices governed under chapter 76.09 RCW and its
38 rules, including the cutting of existing trees cultivated by

1 agricultural methods in growing cycles shorter than ten years, except
2 for those practices that convert forest land to another use;

3 (c) Normal maintenance, minor modifications, repair, or operation
4 of existing serviceable structures, drainage ditches, buildings, or
5 facilities within a buffer zone where operations do not adversely
6 impact streamside buffer functions. However, written notice must be
7 submitted to the department at least ten days prior to the commencement
8 of such work and impacts must be minimized;

9 (d) Existing noncommercial lawn and garden care and maintenance;

10 (e) Maintenance and operation of existing orchards; or

11 (f) Any incident in which livestock gain access to the waters of
12 the state or designated streamside buffers accidentally or by some
13 manner not within the control of the livestock owner. However, the
14 situation must be promptly corrected and action must be taken to
15 minimize future incidents from occurring again.

16 NEW SECTION. **Sec. 5.** (1) An act or omission that either damages,
17 injures, or endangers useable salmon fish habitat, water quality, or
18 streamside buffers is a public nuisance.

19 (2) A person may commence a civil action against any person,
20 including the state of Washington, alleged in violation of section 3 of
21 this act. The action is subject to the procedural requirements and
22 substantive limitations applicable to metals mining and milling law
23 violations in RCW 78.56.140.

24 NEW SECTION. **Sec. 6.** (1) The department shall assist those
25 landowners who voluntarily restore and enhance streamside functions.
26 The department shall provide coordination for conservation districts,
27 regional fisheries enhancement, and other local conservation groups who
28 assist landowners with voluntary and cooperative restoration and
29 enhancement projects.

30 (2) A person who voluntarily restores and enhances streamside
31 functions is eligible to obtain funds from those sources intended to
32 provide habitat, water quality, and resource conservation benefits.
33 The department shall assist those landowners in seeking necessary
34 funding.

35 NEW SECTION. **Sec. 7.** The department of ecology, in cooperation
36 with the department of agriculture and conservation commission, shall

1 develop recommendations for the legislature that will provide
2 additional tax incentives and other incentives for those landowners who
3 will actively restore and enhance streamside functions. The department
4 of ecology shall report its recommendations to the legislature by
5 December 31, 1997.

6 NEW SECTION. **Sec. 8.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 9.** This act takes effect July 1, 1998.

11 NEW SECTION. **Sec. 10.** Sections 1 through 6 and 8 of this act
12 constitute a new chapter in Title 90 RCW.

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