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HOUSE BILL 2081

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Parlette and Chandler

Read first time 02/19/97. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to agricultural spraying; amending RCW 36.70A.060;  
2 adding a new section to chapter 7.48 RCW; adding a new section to  
3 chapter 17.21 RCW; adding a new section to chapter 35.63 RCW; adding a  
4 new section to chapter 35A.63 RCW; adding a new section to chapter  
5 36.70 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The agriculture industry is of vital concern  
8 to the welfare and general economy of the state. The legislature  
9 recognizes that growth pressures in the state have resulted in  
10 agricultural lands and residential developments being located side-by-  
11 side in many cases. The legislature further acknowledges that current  
12 law does not recognize that a small amount of drift will occur whenever  
13 there is some agricultural spraying, and there are no standards to  
14 evaluate the seriousness of any drift that may occur. The legislature  
15 therefore finds and declares that it is the policy of this state to  
16 encourage local governments to require buffers between agricultural  
17 lands and residential development, and to enact reasonable standards  
18 for the amount of drift that occurs as a result of agricultural  
19 spraying.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 7.48 RCW  
2 to read as follows:

3        (1) No cause of action may be maintained under this chapter against  
4 any certified applicator, as defined in RCW 17.21.020, for incidental  
5 amounts of spraydrift that may occur from the application of a  
6 pesticide if the spraying was done in accordance with the provisions of  
7 subsection (2) of this section.

8        (2) A certified applicator may claim the immunity provided under  
9 subsection (1) of this section if:

10        (a) The spraying was done in accordance with the label;

11        (b) The spraying was done during favorable wind conditions. For  
12 purposes of this section, "favorable wind conditions" means that it was  
13 either calm or the wind was blowing towards the intended place of  
14 application; and

15        (c) The certified applicator did not intend to direct the spray  
16 from the lands to which it was to be applied.

17        (3) "Incidental amounts of spraydrift" for purposes of this section  
18 means spray residue found off target and on a person's property or  
19 body, and the amount of the residue is less than the residue allowed  
20 under federal environmental protection agency standards for edible  
21 produce.

22        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 17.21 RCW  
23 to read as follows:

24        (1) No cause of action may be maintained under this chapter against  
25 any certified applicator, as defined in RCW 17.21.020, for incidental  
26 amounts of spraydrift that may occur from the application of a  
27 pesticide if the spraying was done in accordance with the provisions of  
28 subsection (2) of this section.

29        (2) A certified applicator may claim the immunity provided under  
30 subsection (1) of this section if:

31        (a) The spraying was done in accordance with the label;

32        (b) The spraying was done during favorable wind conditions. For  
33 purposes of this section, "favorable wind conditions" means that it was  
34 either calm or the wind was blowing towards the intended place of  
35 application; and

36        (c) The certified applicator did not intend to direct the spray  
37 from the lands to which it was to be applied.

1 (3) "Incidental amounts of spraydrift" for purposes of this section  
2 means spray residue found off target and on a person's property or  
3 body, and the amount of the residue is less than the residue allowed  
4 under federal environmental protection agency standards for edible  
5 produce.

6 **Sec. 4.** RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended  
7 to read as follows:

8 (1) Each county that is required or chooses to plan under RCW  
9 36.70A.040, and each city within such county, shall adopt development  
10 regulations on or before September 1, 1991, to assure the conservation  
11 of agricultural, forest, and mineral resource lands designated under  
12 RCW 36.70A.170. Regulations adopted under this subsection may not  
13 prohibit uses legally existing on any parcel prior to their adoption  
14 and shall remain in effect until the county or city adopts development  
15 regulations pursuant to RCW 36.70A.120. Such regulations shall assure  
16 that the use of lands adjacent to agricultural, forest, or mineral  
17 resource lands shall not interfere with the continued use, in the  
18 accustomed manner and in accordance with best management practices, of  
19 these designated lands for the production of food, agricultural  
20 products, or timber, or for the extraction of minerals. Counties and  
21 cities shall require that all plats, short plats, development permits,  
22 and building permits issued for development activities on, or within  
23 three hundred feet of, lands designated as agricultural lands, forest  
24 lands, or mineral resource lands, contain a notice that the subject  
25 property is within or near designated agricultural lands, forest lands,  
26 or mineral resource lands on which a variety of commercial activities  
27 may occur that are not compatible with residential development for  
28 certain periods of limited duration. Counties and cities shall  
29 establish a reasonable amount of buffer space on lands that will be  
30 developed for residential use, and which are located next to  
31 agricultural lands, in order to protect residents against incidental  
32 amounts of drift that may occur from agricultural spraying.

33 (2) Each county and city shall adopt development regulations that  
34 protect critical areas that are required to be designated under RCW  
35 36.70A.170. For counties and cities that are required or choose to  
36 plan under RCW 36.70A.040, such development regulations shall be  
37 adopted on or before September 1, 1991. For the remainder of the

1 counties and cities, such development regulations shall be adopted on  
2 or before March 1, 1992.

3 (3) Such counties and cities shall review these designations and  
4 development regulations when adopting their comprehensive plans under  
5 RCW 36.70A.040 and implementing development regulations under RCW  
6 36.70A.120 and may alter such designations and development regulations  
7 to insure consistency.

8 (4) Forest land and agricultural land located within urban growth  
9 areas shall not be designated by a county or city as forest land or  
10 agricultural land of long-term commercial significance under RCW  
11 36.70A.170 unless the city or county has enacted a program authorizing  
12 transfer or purchase of development rights.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.63 RCW  
14 to read as follows:

15 Each city or county that plans under this chapter must adopt  
16 ordinances or development regulations that establish a reasonable  
17 amount of buffer space on lands that will be developed for residential  
18 use, and which are located next to agricultural lands, in order to  
19 protect residents against incidental amounts of drift that may occur  
20 from agricultural spraying.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.63 RCW  
22 to read as follows:

23 Each city that plans under this chapter must adopt ordinances or  
24 development regulations that establish a reasonable amount of buffer  
25 space on lands that will be developed for residential use, and which  
26 are located next to agricultural lands, in order to protect residents  
27 against incidental amounts of drift that may occur from agricultural  
28 spraying.

29 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70 RCW  
30 to read as follows:

31 Each county that plans under this chapter must adopt ordinances or  
32 development regulations that establish a reasonable amount of buffer  
33 space on lands that will be developed for residential use, and which  
34 are located next to agricultural lands, in order to protect residents

1 against incidental amounts of drift that may occur from agricultural  
2 spraying.

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