

# SENATE BILL REPORT

## SHB 2723

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As Reported By Senate Committee On:  
Financial Institutions, Housing & Consumer Protection, February 22, 2006

**Title:** An act relating to a seller's real estate disclosure of proximity to farming.

**Brief Description:** Changing the seller's real estate disclosure of proximity to farming.

**Sponsors:** House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Tom, Lantz, Priest, Clibborn, Shabro, Hunter and Green).

**Brief History:** Passed House: 2/10/06, 97-1.

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 2/22/06 [DP].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Majority Report:** Do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Finkbeiner, Keiser, Schmidt and Spanel.

**Staff:** Jennifer Arnold (786-7471)

**Background:** Sellers of real property are required, by statute, to make certain disclosures to prospective buyers in order to put such buyers on notice of conditions, encumbrances, laws, and regulations affecting the property.

Under current law, sellers of real property, located within one mile of a farm or farm operation, are required to provide prospective buyers with the following notice statement: *"This notice is to inform prospective residents that the real property they are about to acquire lies within one mile of the property boundary of a farm. The farm may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Washington right to farm act."*

The Washington "Right to Farm Act" provides that, in general, agricultural activities conducted on farmland, if consistent with good agricultural practice and established prior to surrounding non-agricultural activities, are presumed to be reasonable and, therefore, do not constitute "nuisances" that may be prevented in a lawsuit. In a nuisance lawsuit, a plaintiff may sue a property owner based on the claim that the defendant makes unreasonable use of his or her property to the detriment of the plaintiff's property. These lawsuits may, for example, seek to prevent noise or odors.

**Summary of Bill:** The disclosure, required to be made by sellers of real property in regards to farm proximity and farm practices, is modified. It is no longer specified that the real property to be purchased lie within one mile of a farm, rather it is stated that the property *"may lie within close proximity to a farm."* The disclosure provides that *"the operation of a farm*

*involves usual and customary agricultural practices,"* protected by the Right to Farm Act, in place of stating that the farm may generate usual and ordinary noise, dust, odors, and other associated conditions.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This bill informs both consumers and sellers. It provides more meaningful notice than currently exists in the seller disclosure statutes about the Right to Farm Act. With this bill, sellers will no longer mark "do not know," in regards to whether a farm is within one mile of the property for sale, which provides very little notice to the buyer. Under this bill, prospective buyers are encouraged to do more investigation. The bill provides language that will be added to the seller disclosure form that is required by statute. This is the result of an agreement between the farming community and the realtor industry.

**Testimony Against:** None.

**Who Testified:** PRO: Bob Mitchell, Washington Realtors.