
SENATE BILL 5505

State of Washington

59th Legislature

2005 Regular Session

By Senators Carrell, Morton, Honeyford and Mulliken

Read first time 01/26/2005. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to liability for inadequate storm water control in
2 densely populated urban areas; adding a new section to chapter 90.03
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) The western portion of Washington state is characterized by
7 high annual rainfall, including locally exceptional precipitation
8 causing high flood peaks;

9 (b) Such events can cause enormous property damage and devastating
10 personal injury, and can also present high costs to the state for
11 emergency services, disaster assistance, and the repair and replacement
12 of roads, bridges, utilities, and other public works;

13 (c) Many urban land uses decrease the ability of upstream lands to
14 store storm waters, thus increasing runoff and making densely populated
15 urban areas particularly susceptible to flooding; and

16 (d) Many storm water control facilities have been placed in natural
17 watercourses that are used for storm water conveyance. If such systems
18 are not properly designed and maintained, and if storm water planning

1 and control is not adequate, the capacity of the watercourse may be
2 exceeded, contributing to the magnitude of flood events and attendant
3 downstream damages.

4 (2) It is the intent of the legislature to:

- 5 (a) Encourage storm water management and flood prevention; and
- 6 (b) Establish a minimum standard of care for the design,
7 development and maintenance of adequate storm water control facilities
8 in natural watercourses within urban growth areas of high population
9 density.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW
11 to read as follows:

12 (1) This section applies only to cities situated within counties
13 described in RCW 36.70A.215(7).

14 (2) The definitions in this subsection apply throughout this
15 section.

16 (a) "Natural watercourse" means a channel with a defined bed and
17 banks or a depression or swale that in its natural condition acts to
18 drain water flowing perennially or intermittently.

19 (b) "Storm water control facility" means any facility, improvement,
20 development, property, or interest therein, that is made, constructed,
21 or acquired, for the purpose of controlling, or protecting life or
22 property from, any storm, waste, flood, or surplus waters.

23 (3) Within urban growth areas designated under RCW 36.70A.110, and
24 where drainage to a natural watercourse has been increased
25 significantly beyond the capacity of the watercourse in its natural
26 condition:

27 (a) A city must make diligent efforts to develop, maintain, and
28 enhance the capacity of storm water control facilities to protect life
29 and property from flooding and attendant damages; and

30 (b) A city is liable in an action for damages to a person whose
31 property is damaged by flooding if the damages would have been avoided
32 by the city's exercise of reasonable care in developing, maintaining,
33 and enhancing the capacity of storm water control facilities.

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