

SENATE BILL REPORT

SB 5414

As of February 6, 2015

Title: An act relating to regulating trees and shrubs located near solar energy systems.

Brief Description: Regulating trees and shrubs located near solar energy systems.

Sponsors: Senator McAuliffe.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/05/15.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: William Bridges (786-7416)

Background: Washington Laws that Protect Solar Energy Systems. Under Washington law, landowners may use solar easements to protect adequate access to sunlight for solar energy systems. Furthermore, homeowner associations may not prohibit installation of solar energy panels with certain exceptions, such as safety regulations and visibility restrictions. Finally, cities and counties are encouraged to use land-use planning processes to protect access to direct sunlight for solar energy systems.

Private Nuisance. In general a private nuisance is an unreasonable interference with the use and enjoyment of another's property. Any person whose property is injuriously affected or whose personal enjoyment is lessened by a nuisance may sue to recover damages and seek a court order to stop or abate the nuisance.

Under Washington law, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and do not constitute a nuisance unless the activity or practice has a substantial adverse effect on public health and safety.

Summary of Bill: Declaring a Private Nuisance for Certain Trees that Shade Solar Systems. A private nuisance is declared for the planting of a tree or shrub that will cast a shadow greater than 10 percent on an adjacent solar energy system between 10 a.m. and 2 p.m. local standard time. A solar energy system is broadly defined and includes any device that uses direct sunlight as an energy source to generate electricity or heat.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Creating Exceptions. A tree or shrub is not a private nuisance if:

- planted prior to the installation of a solar energy system;
- planted, grown, or harvested consistent with an agricultural activity or forest practice;
- planted to replace a tree or shrub that was growing prior to the installation of the solar energy system;
- subject to a city or county ordinance; or
- used by an adjacent landowner as part of a passive or natural solar heating or cooling system.

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.

Staff Summary of Public Testimony: Pro: This bill is motivated by a constituent whose \$65,000 solar system is being shaded by trees planted by a neighbor. This bill is not about cutting down trees that have planted before the placement of a solar system.

Persons Testifying: PRO: Senator McAuliffe, prime sponsor.