

HOUSE BILL REPORT

ESSB 5431

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to protection of composting from nuisance lawsuits.

Brief Description: Concerning the protection of composting from nuisance lawsuits.

Sponsors: Senate Committee on Agriculture, Water, Trade & Economic Development (originally sponsored by Senators Warnick, Takko, Brown, Hawkins, Lias, Schoesler, Honeyford and Fortunato).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/22/17, 3/29/17 [DP].

Brief Summary of Engrossed Substitute Bill

- Provides that composting is presumed to be reasonable and not a nuisance if it meets certain criteria.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 12 members: Representatives Blake, Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Lytton, Orcutt, Pettigrew, Schmick, Springer, Stanford and J. Walsh.

Minority Report: Do not pass. Signed by 2 members: Representatives Chapman, Vice Chair; Robinson.

Staff: Robert Hatfield (786-7117).

Background:

Nuisance.

A nuisance is an activity that injures health, is indecent, offends the senses, or obstructs the free use of property so that it interferes with the comfortable enjoyment of life and property.

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.

In a nuisance lawsuit, a plaintiff may sue a property owner based on the claim that the property owner has made unreasonable use of his or her property to the detriment of the plaintiff's property.

Nuisance —Agricultural Activities Exemption.

Agricultural activities conducted on farmland are generally presumed to be reasonable and not a nuisance unless the activity or practice has a substantial adverse effect on public health and safety. In order to be considered reasonable and thus not a nuisance, the agricultural activities must be consistent with good agricultural practices and established prior to surrounding nonagricultural activities. Agricultural activities that comply with all applicable laws and rules are presumed to be good agricultural practices.

For the purposes of nuisance law, "agricultural activities" are defined as activities that occur on a farm in connection with the commercial production of farm products.

For the purposes of nuisance law, "farm products" are defined to include certain specified products, including, among other things, livestock, vegetables, grasses, trees, and freshwater fish and fish products.

Summary of Bill:

Composting, if consistent with good agricultural or forest practices, and established prior to surrounding nonagricultural or nonforestry activities, and in compliance with county and city regulations, is presumed to be reasonable and not a nuisance unless it violates county or city regulations or has a substantial adverse effect on public health and safety.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Composting is important to agriculture, and provides utility to Washington residents. The bill in its current form provides assurances that compost activities must be responsive to communities in order to be able to continue their work. This bill is an important measure to ensure that compost operations continue to support waste reduction goals of the state.

(Opposed) This bill is not about enabling farmers to do composting. The fact that no farmers have come to testify in support of this bill suggests that this bill is not actually all that

important to farmers. This bill is a straightforward bill intended for the benefit of large composters. Washington leads the nation in composting, and it is great to take yard and food waste, put it outside for pick-up, and turn it into fertilizer. But composting also produces noxious odors, which are right in the strike zone of nuisance law. One composting company processes 350,000 tons of compost per year. But that same company has a poor track record of being a good neighbor, and has been the source of odor complaints for many years. Composting is important work, but not at the expense of our public safety. One composting company has been involved in multiple lawsuits and generated more than 7,000 complaints over six years to a local clean air authority.

Persons Testifying: (In support) Jay Blazey, Cedar Grove Organic Compost.

(Opposed) Elliot, Paull.

Persons Signed In To Testify But Not Testifying: None.