
SENATE BILL 5196

State of Washington

65th Legislature

2017 Regular Session

By Senators Warnick, Hobbs, Takko, King, Chase, and Honeyford

Read first time 01/16/17. Referred to Committee on Agriculture, Water, Trade & Economic Development.

1 AN ACT Relating to including certain cattle feedlots within the
2 statutory exemption for odor or fugitive dust caused by agricultural
3 activity; and amending RCW 70.94.640.

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

5 **Sec. 1.** RCW 70.94.640 and 2005 c 511 s 4 are each amended to
6 read as follows:

7 (1) Odors or fugitive dust caused by agricultural activity
8 consistent with good agricultural practices on agricultural land are
9 exempt from the requirements of this chapter unless they have a
10 substantial adverse effect on public health. In determining whether
11 agricultural activity is consistent with good agricultural practices,
12 the department of ecology or board of any authority shall consult
13 with a recognized third-party expert in the activity prior to issuing
14 any notice of violation.

15 (2) Any notice of violation issued under this chapter pertaining
16 to odors or fugitive dust caused by agricultural activity shall
17 include a statement as to why the activity is inconsistent with good
18 agricultural practices, or a statement that the odors or fugitive
19 dust have substantial adverse effect on public health.

20 (3) In any appeal to the pollution control hearings board or any
21 judicial appeal, the agency issuing a final order pertaining to odors

1 or fugitive dust caused by agricultural activity shall prove the
2 activity is inconsistent with good agricultural practices or that the
3 odors or fugitive dust have a substantial adverse impact on public
4 health.

5 (4) If a person engaged in agricultural activity on a contiguous
6 piece of agricultural land sells or has sold a portion of that land
7 for residential purposes, the exemption of this section shall not
8 apply.

9 (5) As used in this section:

10 (a) "Agricultural activity" means the growing, raising, or
11 production of horticultural or viticultural crops, berries, poultry,
12 livestock, shellfish, grain, mint, hay, and dairy products.

13 (b) "Good agricultural practices" means economically feasible
14 practices which are customary among or appropriate to farms and
15 ranches of a similar nature in the local area.

16 (c) "Agricultural land" means at least five acres of land devoted
17 primarily to the commercial production of livestock, agricultural
18 commodities, or cultured aquatic products.

19 (d) "Fugitive dust" means a particulate emission made airborne by
20 human activity, forces of wind, or both, and which do not pass
21 through a stack, chimney, vent, or other functionally equivalent
22 opening.

23 (6) With the exception of cattle feedlots implementing best
24 management practices pursuant to the feedlot's fugitive dust control
25 plan, the exemption for fugitive dust provided in subsection (1) of
26 this section does not apply to facilities subject to RCW 70.94.151 as
27 specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or
28 70.94.161.

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