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**Civil Rights & Judiciary Committee**

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**HB 1637**

**Brief Description:** Addressing airborne nuisances experienced by transitory populations.

**Sponsors:** Representatives Pollet and Valdez.

**Brief Summary of Bill**

- Revises the definition of air pollution in the Clean Air Act to include any odor or air emission that unreasonably interferes with a person's use or enjoyment of a public space.
- Allows a clean air act enforcement authority to investigate and initiate enforcement action on a nuisance complaint.
- Authorizes municipal governments and certain regulatory agencies to file an action to abate a nuisance when repeated findings have been entered.

**Hearing Date:** 2/20/19

**Staff:** Ingrid Lewis (786-7289).

**Background:**

The Washington Clean Air Act.

The Washington Clean Air Act (Act) regulates outdoor air pollution. Air pollution control regulations address emission of air contaminants that injure health or unreasonably interfere with enjoyment of life and property. Enforcement authority for the Act is handled either by the Department of Ecology or by one of the seven clean air agencies within Washington, depending on the county where the source is located.

A person may file a complaint about an odor via a local enforcement agency telephone or email contact. A person may file a complaint anonymously, but agencies generally do not take enforcement action on anonymous complaints about an odor.

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*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.*

There is an exemption to the requirements of the Act for agricultural activities that cause odors or fugitive dust, so long as the activities are consistent with good agricultural practices, and unless they have a substantial adverse effect on public health

#### Nuisance Laws.

A nuisance is an activity that injures health, is indecent, offends decency, or in any way renders other persons insecure in life or in the use of property. Although nuisance laws have traditionally developed through common law, the Legislature has enacted specific statutes to deal with certain kinds of nuisances. For example, the Legislature has enacted nuisance laws regarding prostitution, exhibition of lewd films, and fighting. An action to abate a nuisance may be filed if the nuisance interferes with the comfortable enjoyment of life and property or if it injures another's health.

#### **Summary of Bill:**

The definition of air pollution in the Washington Clean Air Act is revised to include any odor or air emission that unreasonably interferes with a person's use or enjoyment of a public space by preventing the normal use of the space due to the offensive nature of the odor or creating a risk of illness or other adverse health effect as a result of normal use of the space. A public space includes a public park, public recreational facility or trail, or publicly-owned commons of any municipal government or state agency.

When an air quality complaint is received by a clean air act enforcement authority (authority), it may be investigated without the original complainant present. The authority may initiate enforcement action upon a finding that the odor or emission creates a nuisance or health hazard. A "clean air act enforcement authority" is defined as a region's regulatory and enforcement authority for air quality issues.

Repeated findings that an odor or emission creates a nuisance or a health hazard that interferes with the reasonable use of a public space may be used by a municipal government or certain regulatory agencies to initiate a civil action against the source of the odor or emission. Relief may be in the form of abatement of the nuisance to include requiring the use of practices or enclosures reasonably expected to prevent the escape of the offending odors or emissions.

**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2019.

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