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**SUBSTITUTE SENATE BILL 5253**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Liiias, Warnick, Das, Dhingra, Hasegawa, Hunt, Lovelett, Rolfes, Saldaña, Van De Wege, and Wagoner)

READ FIRST TIME 02/05/21.

1 AN ACT Relating to implementing the recommendations of the  
2 pollinator health task force; amending RCW 43.23.300, 17.24.081,  
3 77.12.058, and 89.08.620; adding a new section to chapter 43.23 RCW;  
4 adding a new section to chapter 17.21 RCW; adding a new section to  
5 chapter 28B.30 RCW; adding a new section to chapter 39.04 RCW; adding  
6 a new section to chapter 89.08 RCW; creating a new section; and  
7 providing an expiration date.

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

9 NEW SECTION. **Sec. 1.** (1) The purpose of this act is to  
10 implement the recommendations of the pollinator health task force  
11 created by section 3, chapter 353, Laws of 2019, entitled  
12 "Recommendations of the Pollinator Health Task Force - for Pollinator  
13 Health in Washington" (November 2020).

14 (2) The task force provided recommendations to help prioritize  
15 and enact policy changes for pollinators in Washington. The  
16 recommendations are organized under five broad categories: (a)  
17 Habitat; (b) pesticides; (c) education; (d) managed pollinators; and  
18 (e) research.

19 (3) The task force met for the first time the same week that the  
20 Asian giant hornet was first discovered in Washington and the week  
21 after the Houdini fly was also reported for the first time in

1 Washington. Asian giant hornets primarily hunt honey bees and destroy  
2 entire honey bee hives. The Houdini fly threatens native mason bee  
3 populations as well as managed mason bees. Washington is home to over  
4 400 different species of native bees, 65 species of butterflies, as  
5 well as moths, wasps, beetles, flies, and hummingbirds. The loss of  
6 pollinators, managed and unmanaged, can lead to decreased yields of  
7 many fruits, nuts, and vegetables. Washington is currently the top  
8 producer in the United States of apples, sweet cherries, alfalfa,  
9 blueberries, and pears. In Washington state, honey bees and other  
10 pollinators are responsible for the production of tree fruits, small  
11 fruits, and other crops.

12 (4) The legislature intends by this act to implement various  
13 recommendations from the pollinator health task force to protect and  
14 expand the habitat upon which pollinators depend, by providing  
15 technical and financial assistance to public and private landowners,  
16 and by coordinating with state agencies and local governments in  
17 promoting practices to ensure sustainable, healthy populations of  
18 managed and native pollinators.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.23  
20 RCW to read as follows:

21 (1) The department shall create and chair a pollinator health  
22 task force. The department shall appoint the members of the task  
23 force, which must include, but is not limited to, representatives of  
24 the following interests, organizations, and state agencies:

- 25 (a) The conservation commission;
- 26 (b) The department of natural resources;
- 27 (c) The department of fish and wildlife;
- 28 (d) The state parks and recreation commission;
- 29 (e) The Washington state department of transportation;
- 30 (f) The state noxious weed control board;
- 31 (g) The tree fruit industry;
- 32 (h) The seed industry;
- 33 (i) The berry industry;
- 34 (j) Other agricultural industries dependent upon pollinators;
- 35 (k) Washington State University;
- 36 (l) Pesticide distributors and applicators;
- 37 (m) Conservation organizations;
- 38 (n) Organizations representing beekeepers or apiarists;

1 (o) A member of the public from west of the crest of the Cascade  
2 mountains; and

3 (p) A member of the public from east of the crest of the Cascade  
4 mountains.

5 (2) One or more representatives of Washington tribes must also be  
6 invited to participate on the task force.

7 (3) One youth representative from an organization that encourages  
8 students to engage in agricultural education must also be invited to  
9 participate on the task force when available.

10 (4) The task force shall build upon existing pollinator research  
11 and pollinator habitat plans at the national and state level  
12 including, but not limited to, the state-managed pollinator plan, to  
13 assist with the development of an implementation plan to implement  
14 the state pollinator health strategy.

15 (5) The task force shall assist, as practicable, with  
16 implementation of the recommendations of the task force submitted to  
17 the legislature in November 2020.

18 (6) The department shall provide the implementation plan to the  
19 appropriate committees of the senate and house of representatives by  
20 December 31, 2021, in compliance with RCW 43.01.036.

21 (7) The department shall provide information related to  
22 implementation of the state pollinator health strategy and a  
23 recommendation of whether to extend the task force beyond January 1,  
24 2024, to the appropriate committees of the senate and house of  
25 representatives by December 1, 2022, in compliance with RCW  
26 43.01.036.

27 (8) This section expires January 1, 2024.

28 **Sec. 3.** RCW 43.23.300 and 2019 c 353 s 2 are each amended to  
29 read as follows:

30 (1) The department shall establish a program to promote and  
31 protect pollinator habitat and the health and sustainability of  
32 pollinator species. As funds are made available, the program must  
33 provide technical and financial assistance to state agencies, local  
34 governments, and private landowners to implement practices that  
35 promote habitat for managed pollinators, as well as beekeeper and  
36 grower best management practices. The program must be administered in  
37 coordination with the apiary program established in chapter 15.60  
38 RCW, the honey bee commission authorized in chapter 15.62 RCW, and

1 programs administered by the conservation commission and conservation  
2 districts.

3 (2) Subject to the availability of funds appropriated for this  
4 specific purpose, the department must:

5 (a) Evaluate and develop protocols that would be voluntary and  
6 with protected access, but that could increase communication between  
7 beekeepers, farmers and growers, and pesticide applicators including,  
8 but not limited to, education and outreach to beekeepers, farmers and  
9 growers, and pesticide applicators;

10 (b) Review, in consultation with Washington State University,  
11 education needs related to pollinator education and develop a plan  
12 that outlines the goals related to pollinator education and the  
13 necessary partners, personnel, and other resources;

14 (c) Create a catalog of current resources on best management  
15 practices and other educational resources related to pollinator  
16 health and make those resources available to the public on the  
17 department's website;

18 (d) Document, in consultation with Washington State University,  
19 the bee species within the state and map their distributions as  
20 practicable;

21 (e) Provide economic and environmental impacts of weed listing  
22 and categorization on pollinator health to county noxious weed  
23 control boards in consultation with the state noxious weed control  
24 board and annually submit a report to the noxious weed control board  
25 describing pollinator health issues;

26 (f) Provide materials, where practicable and in consultation with  
27 Washington State University, about certification programs that  
28 support pollinator health, biodiversity, and low-impact pesticide  
29 application to the public;

30 (g) Educate the public through plant nurseries about the  
31 necessity for blooming nectar plants to be available to pollinators  
32 throughout their respective active seasons;

33 (h) Survey registered beekeepers to determine whether the current  
34 apiary program should be expanded to include apiary inspections or  
35 registration of apiary yards;

36 (i) Continue and maintain partnership with federal agencies and  
37 neighboring states to promote and enhance the implementation of the  
38 national strategy to promote the health of honey bees and improve  
39 pollinator health;

1 (j) Increase the availability of pollinator-related resources on  
2 the department's website, as practicable, and other state agencies'  
3 websites as appropriate;

4 (k) Develop guidelines for allowing beekeeping on state managed  
5 lands so that impacts to wild pollinators from honey bees may be  
6 minimized; and

7 (l) In consultation with the department of revenue, review the  
8 open space taxation act and provide recommendations to the  
9 legislature, in compliance with RCW 43.01.036, on options to include  
10 pollinator habitat in the current open space property tax  
11 classification.

12 NEW SECTION. Sec. 4. A new section is added to chapter 17.21  
13 RCW to read as follows:

14 (1) The department shall continue to evaluate and update, as  
15 necessary, pesticide regulatory and education programs focused on  
16 measures to protect pollinator health. This work by the department,  
17 when appropriate, must be coordinated with Washington State  
18 University pesticide education programs to limit duplication and  
19 ensure consistent information sharing.

20 (2) Subject to the availability of amounts appropriated for this  
21 specific purpose, the department must:

22 (a) Evaluate and adapt pesticide training and drift reduction  
23 technical assistance programs to include up-to-date protection  
24 measures for pollinators;

25 (b) Support Washington State University's pesticide education  
26 programs continued incorporation of pollinator protection measures  
27 during their training and certification classes;

28 (c) Coordinate with Washington State University on presented  
29 research, new protection measures, technological advancements, and  
30 any other significant science-based information for reducing  
31 pollinator health impacts associated with pesticides;

32 (d) Coordinate with pollinator health staff in the department and  
33 at Washington State University to conduct investigations and share  
34 annual findings from pesticide-related investigations with the  
35 pollinator health task force;

36 (e) Evaluate and, if necessary, update the pesticide civil  
37 penalty matrix related to pollinator death or damage due to the  
38 misuse of pesticides and ensure pollinator health protections are

1 included when evaluating either pesticide investigation violations or  
2 penalties, or both;

3 (f) Evaluate the inclusion of pollinator protection course  
4 materials for pesticide license credit issuance. When possible, the  
5 department must provide credits for pesticide courses focused on  
6 pollinator protection measures.

7 (3) By December 31, 2021, the department shall provide a report  
8 to the appropriate committees of the senate and house of  
9 representatives, in compliance with RCW 43.01.036, that includes  
10 recommendations for measures to mitigate the risks of harm to bees  
11 and other pollinators from the use of neonicotinoid pesticides. The  
12 department shall evaluate and incorporate the reviews scheduled for  
13 completion by the United States environmental protection agency  
14 during 2021, including recommended mitigation measures from that  
15 agency. The department shall also review neonicotinoid pesticide use  
16 restrictions and labeling requirements adopted in other states and  
17 include in the report any recommendations for adoption of similar  
18 requirements in this state.

19 **Sec. 5.** RCW 17.24.081 and 1991 c 257 s 12 are each amended to  
20 read as follows:

21 It shall be unlawful for a person to:

22 (1) Sell, offer for sale, or distribute a noxious weed or a plant  
23 or plant product or regulated article infested or infected with a  
24 plant pest declared by rule to be a threat to the state's forest,  
25 agricultural, horticultural, floricultural, or beekeeping industries  
26 or environment;

27 (2) Knowingly receive a noxious weed, or a plant, plant product,  
28 bees, bee hive or appliances, or regulated article sold, given away,  
29 carried, shipped, or delivered for carriage or shipment within this  
30 state, in violation of the provisions of this chapter or the rules  
31 adopted under this chapter;

32 (3) Fail to immediately notify the department and isolate and  
33 hold the noxious weed, bees, bee hives or appliances, plants or plant  
34 products, or other thing unopened or unused subject to inspection or  
35 other disposition as may be provided by the department, where the  
36 item has been received without knowledge of the violation and the  
37 receiver has become subsequently aware of the potential problem;

1 (4) Knowingly conceal or willfully withhold available information  
2 regarding an infected or infested plant, plant product, regulated  
3 article, or noxious weed;

4 (5) Introduce or move into this state, or to move or dispose of  
5 in this state, a plant, plant product, or other item included in a  
6 quarantine, except under rules as may be prescribed by the  
7 department, after a quarantine order has been adopted under this  
8 chapter against a place, nursery, orchard, vineyard, apiary, other  
9 agricultural establishment, county of this state, another state,  
10 territory, or a foreign country as to a plant pest, bee pest, or  
11 noxious weed or genetically engineered plant or plant pest organism,  
12 until such quarantine is removed;

13 (6) Introduce or move nonnative managed bumble bees into this  
14 state to be used in open-field agricultural use.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.30  
16 RCW to read as follows:

17 The Washington State University extension program must develop a  
18 pollinator extension education and outreach program and develop a  
19 statewide, science-based, pollinator education plan to educate  
20 beekeepers, agricultural producers, land managers, licensed pesticide  
21 applicators, other professionals, and the public. The plan should  
22 emphasize pollinator best management practices for both native and  
23 managed species.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 39.04  
25 RCW to read as follows:

26 If a public works project includes landscaping, at least 25  
27 percent of the planted area must be pollinator habitat to the extent  
28 practicable. For purposes of this section, "pollinator habitat" means  
29 an area of land that is or may be developed as habitat beneficial for  
30 the feeding, nesting, and reproduction of all pollinators, including  
31 honey bees. The department of agriculture, in consultation with the  
32 conservation commission, must develop landscape standards guidelines  
33 that include a list of native forage plants that are pollen-rich or  
34 nectar-rich and beneficial for all pollinators, including honey bees,  
35 and how pollinator plants and habitat should be designed and  
36 maintained after installation.

1       **Sec. 8.** RCW 77.12.058 and 2019 c 353 s 8 are each amended to  
2 read as follows:

3       (1) The department must implement practices necessary to maintain  
4 pollinator habitat on department-owned and managed agricultural and  
5 grazing lands where practicable. ((For the purposes of this section,  
6 "pollinator habitat" means an area of land that is or may be  
7 developed as habitat beneficial for the feeding, nesting, and  
8 reproduction of all pollinators, including honey bees, as determined  
9 by the department.))

10       (2) The department must evaluate various restoration techniques  
11 with the goal of improving habitat for native pollinators. The  
12 department must update its riparian habitat recommendations to  
13 encourage development of pollinator habitat where practicable when  
14 making habitat improvements or for riparian restoration.

15       (3) For the purposes of this section, "pollinator habitat" means  
16 an area of land that is or may be developed as habitat beneficial for  
17 the feeding, nesting, and reproduction of all pollinators, including  
18 honey bees, as determined by the department.

19       **Sec. 9.** RCW 89.08.620 and 2020 c 351 s 4 are each amended to  
20 read as follows:

21       (1) When prioritizing grant recipients, the commission, in  
22 consultation with the department of agriculture, Washington State  
23 University, and the United States department of agriculture natural  
24 resources conservation service, shall seek to maximize the benefits  
25 of the grant program by leveraging other state, nonstate, public, and  
26 private sources of money. The primary metrics used to rank grant  
27 applications must be made public by the commission.

28       (2) The grant program must prioritize or weight projects based on  
29 consideration of the individual project's ability to:

30       (a) Increase the quantity of organic carbon in topsoil through  
31 practices including, but not limited to, cover cropping, no-till and  
32 minimum tillage conservation practices, crop rotations, manure  
33 application, biochar application, compost application, and changes in  
34 grazing management;

35       (b) Increase the quantity of organic carbon in aquatic soils;

36       (c) Intentionally integrate trees, shrubs, seaweed, or other  
37 vegetation into management of agricultural and aquacultural lands;

38       (d) Reduce or avoid carbon dioxide equivalent emissions in or  
39 from soils;



1 (e) Reduce nitrous oxide and methane emissions through changes to  
2 livestock or soil management; and

3 (f) Increase usage of precision agricultural practices.

4 (3) The commission shall develop and approve a prioritization  
5 metric to guide the distribution of funds appropriated by the  
6 legislature for this purpose, with the goal of producing cost-  
7 effective carbon dioxide equivalent impact benefits.

8 (4) Applicants that create riparian buffers along waterways, or  
9 otherwise benefit fish habitat, must receive an enhanced  
10 prioritization compared to other grant applications that perform  
11 similarly under the prioritization metrics developed by the  
12 commission.

13 (5)(a) Applicants that create or maintain pollinator habitat must  
14 receive an enhanced prioritization compared to other grant  
15 applications that perform similarly under the prioritization metrics  
16 developed by the commission.

17 (b) For the purposes of this subsection, "pollinator habitat"  
18 means an area of land that is or may be developed as habitat  
19 beneficial for the feeding, nesting, and reproduction of all  
20 pollinators, including honey bees, as determined by the department of  
21 agriculture.

22 (6) The commission shall downgrade a specific grant proposal  
23 within its prioritization metric if the proposal is expected to cause  
24 significant environmental damage to fish and wildlife habitat.

25 NEW SECTION. Sec. 10. A new section is added to chapter 89.08  
26 RCW to read as follows:

27 (1) Subject to the availability of amounts appropriated for this  
28 specific purpose, the commission is authorized to develop an ongoing  
29 small grants program to provide funding to the conservation districts  
30 to educate residents and community groups in urban, suburban, and  
31 rural nonfarm areas about the value of habitat for both managed and  
32 native pollinators, and to provide the necessary technical and  
33 financial assistance and materials to create it.

34 (2) Educational efforts should include the benefits of habitat  
35 diversity, especially pollen-rich and nectar-rich flowering forbs and  
36 shrubs. Preference for pollinator plants should be given to native  
37 plants or noninvasive, nonnative plants.

38 (3) Planting projects should provide diverse native or nonnative,  
39 noninvasive plants of high quality for pollinator foraging, nesting,

1 and overwintering, as determined by site suitability. Options may  
2 include, but are not limited to, bee or eco-lawns, flowering meadow  
3 gardens, xeriscaping, shrub plantings, tree plantings, rain gardens,  
4 riparian restoration, and other pollinator-friendly landscaping.

5 (4) Criteria to rank applicants should include a detailed budget  
6 demonstrating funding needs, resource concerns addressed, value to  
7 at-risk native pollinators, multiple-use benefits of habitat, planned  
8 project longevity, and plans for long-term maintenance.

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