
HOUSE BILL 2882

State of Washington

65th Legislature

2018 Regular Session

By Representatives Kloba, Blake, Condotta, and Sawyer

1 AN ACT Relating to addressing the regulation of odors from
2 agricultural activities under the state clean air act; and amending
3 RCW 70.94.640.

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

5 **Sec. 1.** RCW 70.94.640 and 2017 c 217 s 1 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 or
9 produce facilities are exempt from the requirements of this chapter
10 unless they have a substantial adverse effect on public health. In
11 determining whether agricultural activity is consistent with good
12 agricultural practices, the department of ecology or board of any
13 authority shall consult with a recognized third-party expert in the
14 activity prior to issuing 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 detailed statement with evidence as to why the activity is
18 inconsistent with good agricultural practices, or a detailed
19 statement with evidence that the odors or fugitive dust have
20 substantial adverse effect on public health.

1 (3) In any appeal to the pollution control hearings board or any
2 judicial appeal, the agency issuing a final order pertaining to odors
3 or fugitive dust caused by agricultural activity shall prove the
4 activity is inconsistent with good agricultural practices or that the
5 odors or fugitive dust have a substantial adverse impact on public
6 health.

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

11 (5) As used in this section:

12 (a) "Agricultural activity" means the growing, raising, or
13 production of horticultural or viticultural crops, flowers, fruit
14 trees, vegetables, marijuana, usable marijuana, or marijuana-infused
15 products, honey, berries, poultry, livestock, shellfish, grain, mint,
16 hay, and dairy products. "Agricultural activity" also includes the
17 growing, raising, or production of cattle at cattle feedlots.

18 (b) "Good agricultural practices" means economically feasible
19 practices which are customary among or appropriate to farms and
20 ranches of a similar nature in the local area and for cattle feedlots
21 means implementing best management practices pursuant to a fugitive
22 dust control plan that conforms to the fugitive dust control
23 guidelines for beef cattle feedlots, best management practices, and
24 plan development and approval procedures that were approved by the
25 department of ecology in December 1995 or in updates to those
26 guidelines that are mutually agreed to by the department of ecology
27 and by the Washington cattle feeders association or a successor
28 organization on behalf of cattle feedlots.

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

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

36 (e) "Produce facility" means a state-licensed marijuana facility.

37 (6) The exemption for fugitive dust provided in subsection (1) of
38 this section does not apply to facilities subject to RCW 70.94.151 as
39 specified in WAC 173-400-100 as of July 24, 2005, 70.94.152, or
40 70.94.161. The exemption for fugitive dust provided in subsection (1)

1 of this section applies to cattle feedlots with operational
2 facilities which have an inventory of one thousand or more cattle in
3 operation between June 1st and October 1st, where vegetation forage
4 growth is not sustained over the majority of the lot during the
5 normal growing season; except that the cattle feedlots must comply
6 with applicable requirements included in the approved state
7 implementation plan for air quality as of July 23, 2017; and except
8 if an area in which a cattle feedlot is located is at any time in the
9 future designated nonattainment for a national ambient air quality
10 standard for particulate matter, additional control measures may be
11 required for cattle feedlots as part of a state implementation plan's
12 control strategy for that area and as necessary to ensure the area
13 returns to attainment.

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