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SENATE BILL 6588

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State of Washington

54th Legislature

1996 Regular Session

By Senators A. Anderson, Hale, Morton, Oke, McCaslin, Zarelli, Cantu, Deccio, Swecker, Moyer, Johnson, Hochstatter, Prince and West

Read first time 01/18/96. Referred to Committee on Government Operations.

1 AN ACT Relating to regulatory reform; amending RCW 76.09.010,  
2 76.09.040, 48.02.060, 48.30.010, 48.44.050, and 48.46.200; adding a new  
3 section to chapter 43.22 RCW; and adding a new section to chapter 34.05  
4 RCW.

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

6 **Sec. 1.** RCW 76.09.010 and 1993 c 443 s 1 are each amended to read  
7 as follows:

8 (1) The legislature hereby finds and declares that the forest land  
9 resources are among the most valuable of all resources in the state;  
10 that a viable forest products industry is of prime importance to the  
11 state's economy; that it is in the public interest for public and  
12 private commercial forest lands to be managed consistent with sound  
13 policies of natural resource protection; that coincident with  
14 maintenance of a viable forest products industry, it is important to  
15 afford protection to forest soils, fisheries, wildlife, water quantity  
16 and quality, air quality, recreation, and scenic beauty.

17 (2) The legislature further finds and declares it to be in the  
18 public interest of this state to create and maintain through the  
19 adoption of this chapter a comprehensive state-wide system of laws and

1 forest practices regulations which will achieve the following purposes  
2 and policies:

3 (a) Afford protection to, promote, foster and encourage timber  
4 growth, and require such minimum reforestation of commercial tree  
5 species on forest lands as will reasonably utilize the timber growing  
6 capacity of the soil following current timber harvest;

7 (b) Afford protection to forest soils and public resources by  
8 utilizing all reasonable methods of technology in conducting forest  
9 practices;

10 (c) Recognize both the public and private interest in the  
11 profitable growing and harvesting of timber;

12 (d) Promote efficiency by permitting maximum operating freedom  
13 consistent with the other purposes and policies stated herein;

14 (e) Provide for regulation of forest practices so as to avoid  
15 unnecessary duplication in such regulation;

16 (f) Provide for interagency input and intergovernmental and tribal  
17 coordination and cooperation;

18 (g) Achieve compliance with all applicable requirements of federal  
19 and state law with respect to nonpoint sources of water pollution from  
20 forest practices;

21 (h) To consider reasonable land use planning goals and concepts  
22 contained in local comprehensive plans and zoning regulations; and

23 (i) Foster cooperation among managers of public resources, forest  
24 landowners, Indian tribes and the citizens of the state.

25 The authority of the board to adopt forest practices rules is  
26 prescribed by this subsection (2) and RCW 76.09.040. The board may not  
27 adopt forest practices rules based solely on any other section of law  
28 stating a statute's intent or purpose, on the enabling provisions of  
29 the statute establishing the agency, or on any combination of such  
30 provisions.

31 (3) The legislature further finds and declares that it is also in  
32 the public interest of the state to encourage forest landowners to  
33 undertake corrective and remedial action to reduce the impact of mass  
34 earth movements and fluvial processes.

35 (4) The legislature further finds and declares that it is in the  
36 public interest that the applicants for state forest practice permits  
37 should assist in paying for the cost of review and permitting necessary  
38 for the environmental protection of these resources.

1       **Sec. 2.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to read  
2 as follows:

3       (1) Where necessary to accomplish the purposes and policies  
4 specifically stated in RCW 76.09.010(2), and to implement the  
5 provisions of this chapter, the board shall (~~(promulgate)~~) adopt forest  
6 practices (~~(regulations)~~) rules pursuant to chapter 34.05 RCW and in  
7 accordance with the procedures enumerated in this section that:

8       (a) Establish minimum standards for forest practices;

9       (b) Provide procedures for the voluntary development of resource  
10 management plans which may be adopted as an alternative to the minimum  
11 standards in (a) of this subsection if the plan is consistent with the  
12 purposes and policies specifically stated in RCW 76.09.010(2) and the  
13 plan meets or exceeds the objectives of the minimum standards;

14       (c) Set forth necessary administrative provisions; and

15       (d) Establish procedures for the collection and administration of  
16 forest practice fees as set forth by this chapter.

17       Forest practices (~~(regulations)~~) rules pertaining to water quality  
18 protection shall be (~~(promulgated)~~) adopted individually by the board  
19 and by the department of ecology after they have reached agreement with  
20 respect thereto. All other forest practices (~~(regulations)~~) rules  
21 shall be (~~(promulgated)~~) adopted by the board.

22       Forest practices (~~(regulations)~~) rules shall be administered and  
23 enforced by the department except as otherwise provided in this  
24 chapter. Such (~~(regulations)~~) rules shall be (~~(promulgated)~~) adopted  
25 and administered so as to give consideration to all purposes and  
26 policies specifically set forth in RCW 76.09.010(2).

27       (~~((+2))~~) (3) The board shall prepare proposed forest practices  
28 (~~(regulations)~~) rules. In addition to any forest practices  
29 (~~(regulations)~~) rules relating to water quality protection proposed by  
30 the board, the department of ecology shall prepare proposed forest  
31 practices (~~(regulations)~~) rules relating to water quality protection.

32       Prior to initiating the rule making process, the proposed  
33 (~~(regulations)~~) rules shall be submitted for review and comments to the  
34 department of fish and wildlife and to the counties of the state.  
35 After receipt of the proposed forest practices (~~(regulations)~~) rules,  
36 the department of fish and wildlife and the counties of the state shall  
37 have thirty days in which to review and submit comments to the board,  
38 and to the department of ecology with respect to its proposed  
39 (~~(regulations)~~) rules relating to water quality protection. After the

1 expiration of such thirty day period the board and the department of  
2 ecology shall jointly hold one or more hearings on the proposed  
3 ((regulations)) rules pursuant to chapter 34.05 RCW. At such  
4 hearing(s) any county may propose specific forest practices  
5 ((regulations)) rules relating to problems existing within such county.  
6 The board and the department of ecology may adopt such proposals if  
7 they find the proposals are consistent with the purposes and policies  
8 of this chapter.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.22 RCW  
10 to read as follows:

11 For rules adopted after the effective date of this section, the  
12 director of the department of labor and industries may not rely solely  
13 on a statute's statement of intent or purpose, on the enabling  
14 provisions of the statute establishing the agency, or on any  
15 combination of such provisions, for statutory authority to adopt any  
16 rule: PROVIDED, That this section shall not apply to rules adopted  
17 pursuant to chapter 39.12 RCW. It is the intent of the legislature to  
18 retain the status quo and that the provisions of chapter . . . , Laws of  
19 1996 (this act) shall neither explicitly or impliedly diminish nor  
20 expand the rule-making authority of the department under chapter 39.12  
21 RCW.

22 **Sec. 4.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to  
23 read as follows:

24 (1) The commissioner shall have the authority expressly conferred  
25 upon him or her by or reasonably implied from the provisions of this  
26 code.

27 (2) The commissioner shall execute his or her duties and shall  
28 enforce the provisions of this code.

29 (3) The commissioner may:

30 (a) Make reasonable rules and regulations for effectuating any  
31 provision of this code, except those relating to his or her election,  
32 qualifications, or compensation: PROVIDED, That the commissioner may  
33 not adopt rules after the effective date of this section that are based  
34 solely on this statute, or on a statute's statement of intent or  
35 purpose, or on the enabling provisions of the statute establishing the  
36 agency, or any combination of such provisions, for statutory authority  
37 to adopt any rule, except rules defining or clarifying terms in, or

1 procedures necessary to the implementation of a statute. No such rules  
2 and regulations shall be effective prior to their being filed for  
3 public inspection in the commissioner's office.

4 (b) Conduct investigations to determine whether any person has  
5 violated any provision of this code.

6 (c) Conduct examinations, investigations, hearings, in addition to  
7 those specifically provided for, useful and proper for the efficient  
8 administration of any provision of this code.

9 **Sec. 5.** RCW 48.30.010 and 1985 c 264 s 13 are each amended to read  
10 as follows:

11 (1) No person engaged in the business of insurance shall engage in  
12 unfair methods of competition or in unfair or deceptive acts or  
13 practices in the conduct of such business as such methods, acts, or  
14 practices ~~((are defined pursuant to subsection (2) of this section.~~

15 ~~(2) In addition to such unfair methods and unfair or deceptive acts~~  
16 ~~or practices)) as are expressly defined and prohibited by this code((~~  
17 ~~the commissioner may from time to time by regulation promulgated~~  
18 ~~pursuant to chapter 34.05 RCW, define other methods of competition and~~  
19 ~~other acts and practices in the conduct of such business reasonably~~  
20 ~~found by the commissioner to be unfair or deceptive.~~

21 ~~(3) No such regulation shall be made effective prior to the~~  
22 ~~expiration of thirty days after the date of the order by which it is~~  
23 ~~promulgated)).~~

24 ~~((4))~~ (2) If the commissioner has cause to believe that any  
25 person is violating any such ~~((regulation))~~ rule or prohibition of this  
26 code, the commissioner may order such person to cease and desist  
27 therefrom. The commissioner shall deliver such order to such person  
28 direct or mail it to the person by registered mail with return receipt  
29 requested. If the person violates the order after expiration of ten  
30 days after the cease and desist order has been received by him or her,  
31 he or she may be fined by the commissioner a sum not to exceed two  
32 hundred and fifty dollars for each violation committed thereafter.

33 ~~((5))~~ (3) If any such ~~((regulation))~~ rule or prohibition of this  
34 code is violated, the commissioner may take such other or additional  
35 action as is permitted under the insurance code for violation of a  
36 ~~((regulation))~~ rule or that prohibition.

37 (4) Any permanent rule that was adopted by the commissioner under  
38 the authority of this section as it existed before the effective date

1 of this section, and that was in effect as of the effective date of  
2 this section, shall, if otherwise valid, remain in effect until and  
3 unless it is repealed by the commissioner, who shall retain the  
4 authority to repeal any such rule, or is effectively repealed by an act  
5 of the legislature.

6 **Sec. 6.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to read  
7 as follows:

8 The insurance commissioner shall make reasonable regulations in aid  
9 of the administration of this chapter which may include, but shall not  
10 be limited to regulations concerning the maintenance of adequate  
11 insurance, bonds, or cash deposits, information required of  
12 registrants, and methods of expediting speedy and fair payments to  
13 claimants: PROVIDED, That the commissioner may not adopt rules after  
14 the effective date of this section that are based solely on this  
15 section, a statute's statement of intent or purpose, or on the enabling  
16 provisions of the statute establishing the agency, or any combination  
17 of such provisions, for statutory authority to adopt any rule, except  
18 rules defining or clarifying terms in, or procedures necessary to the  
19 implementation of a statute.

20 **Sec. 7.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each  
21 amended to read as follows:

22 The commissioner may adopt, in accordance with the provisions of  
23 the administrative procedure act, chapter 34.05 RCW, (~~promulgate~~)  
24 rules and regulations as necessary or proper to carry out the  
25 provisions of this chapter: PROVIDED, That the commissioner may not  
26 adopt rules after the effective date of this section that are based  
27 solely on this section, a statute's statement of intent or purpose, or  
28 on the enabling provisions of the statute establishing the agency, or  
29 any combination of such provisions, for statutory authority to adopt  
30 any rule, except rules defining or clarifying terms in, or procedures  
31 necessary to the implementation of a statute. Nothing in this chapter  
32 shall be construed to prohibit the commissioner from requiring changes  
33 in procedures previously approved by (~~him~~) the commissioner.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 34.05 RCW  
35 under the subchapter heading Part III to read as follows:

1       RCW 34.05.322 does not apply to: The commissioner of public lands,  
2 the department of social and health services, the department of  
3 ecology, the department of agriculture, the department of health, the  
4 department of revenue, the department of licensing, the department of  
5 labor and industries, the employment security department, the forest  
6 practices board, the fish and wildlife commission, and the office of  
7 the insurance commissioner.

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