
SUBSTITUTE HOUSE BILL 1205

State of Washington

52nd Legislature

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By House Committee on Natural Resources & Parks (originally sponsored by Representatives Belcher, Beck, Scott, Broback, Hargrove, H. Sommers, Bowman, Silver, H. Myers, R. Meyers, Winsley, Edmondson, Wynne and Basich; by request of Department of Natural Resources).

Read first time February 19, 1991.

1 AN ACT Relating to forest fires; amending RCW 76.04.495 and
2 76.04.015; and adding a new section to chapter 76.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04 RCW
5 to read as follows:

6 The department when acting, in good faith, in its statutory
7 capacity as a fire prevention and suppression agency, is carrying out
8 duties owed to the public in general and not to any individual person
9 or class of persons separate and apart from the public. Nothing
10 contained in this title, including but not limited to any provision
11 dealing with payment or collection of forest protection or fire
12 suppression assessments, may be construed to evidence a legislative
13 intent that the duty to prevent and suppress forest fires is owed to
14 any individual person or class of persons separate and apart from the

1 public in general. This section does not alter the department's duties
2 and responsibilities as a landowner.

3 **Sec. 2.** RCW 76.04.495 and 1986 c 100 s 33 are each amended to read
4 as follows:

5 (1) Any person, firm, or corporation: (a) Whose negligence is
6 responsible for the starting or existence of a fire which spreads on
7 forest land; or (b) who creates or allows an extreme fire hazard under
8 RCW 76.04.660 to exist and which hazard contributes to the spread of a
9 fire; or (c) who allows forest debris subject to RCW 76.04.650 to exist
10 and which debris contributes to the spread of fire, shall be liable for
11 any expenses made necessary by (a), (b), or (c) of this subsection
12 (~~incurred by~~). The state, a municipality, ~~(or)~~ a forest protective
13 association, or any agency of the United States may recover such
14 expenses incurred in fighting the fire, together with costs of
15 investigation and litigation including reasonable attorneys' fees and
16 taxable court costs, if the expense was authorized or subsequently
17 approved by the department.

18 (2) The department or agency incurring such expense shall have a
19 lien for the same against any property of the person, firm, or
20 corporation liable under subsection (1) of this section by filing a
21 claim of lien naming the person, firm, or corporation, describing the
22 property against which the lien is claimed, specifying the amount
23 expended on the lands on which the fire fighting took place and the
24 period during which the expenses were incurred, and signing the claim
25 with post office address. No claim of lien is valid unless filed, with
26 the county auditor of the county in which the property sought to be
27 charged is located, within a period of ninety days after the expenses
28 of the claimant are incurred. The lien may be foreclosed in the same

1 manner as a mechanic's lien is foreclosed under the statutes of the
2 state of Washington.

3 **Sec. 3.** RCW 76.04.015 and 1986 c 100 s 2 are each amended to read
4 as follows:

5 (1) The department may, at its discretion, appoint trained
6 personnel possessing the necessary qualifications to carry out the
7 duties and supporting functions of the department and may determine
8 their respective salaries.

9 (2) The department shall have direct charge of and supervision of
10 all matters pertaining to the forest fire service of the state.

11 (3) The department shall:

12 (a) Enforce all laws within this chapter;

13 (b) Be empowered to take charge of and direct the work of
14 suppressing forest fires;

15 (c) Investigate the origin and cause of all forest fires to
16 determine in every case whether either a criminal act or negligence by
17 any person, firm, or corporation caused the starting or existence of
18 the fire. In the course of investigations, the department shall have
19 authority to take possession or control of relevant evidence found in
20 plain view belonging to any person, firm, or corporation. If the owner
21 of the property objects, the department must obtain, within fourteen
22 days, a court order authorizing the continued possession;

23 (d) Furnish notices or information to the public calling attention
24 to forest fire dangers and the penalties for violation of this chapter;

25 (e) Be familiar with all timbered and cut-over areas of the state;
26 and

27 (f) Regulate and control the official actions of its employees, the
28 wardens, and the rangers.

29 (4) The department may:

1 (a) Authorize all needful and proper expenditures for forest
2 protection;

3 (b) Adopt rules for the prevention, control, and suppression of
4 forest fires as it considers necessary including but not limited to:
5 Fire equipment and materials; use of personnel; and fire prevention
6 standards and operating conditions including a provision for reducing
7 these conditions where justified by local factors such as location and
8 weather;

9 (c) Remove at will the commission of any ranger or suspend the
10 authority of any warden;

11 (d) Inquire into:

12 (i) The extent, kind, value, and condition of all timber lands
13 within the state;

14 (ii) The extent to which timber lands are being destroyed by fire
15 and the damage thereon.

16 (5) When the department considers it to be in the best interest of
17 the state, it may cooperate with any agency of another state, the
18 United States or any agency thereof, the Dominion of Canada or any
19 agency or province thereof, and any county, town, corporation,
20 individual, or Indian tribe within the state of Washington in forest
21 fire fighting and patrol.