

HOUSE BILL REPORT

SSB 5688

As Reported By House Committee On:
Natural Resources & Parks

Title: An act relating to civil enforcement of forest practices violations.

Brief Description: Modifying enforcement of forest practices guidelines.

Sponsors: Senate Committee on Natural Resources (originally sponsored by Senators Owen, A. Smith and Oke).

Brief History:

Reported by House Committee on:
Natural Resources & Parks, March 30, 1993, DPA.

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Pruitt, Chair; R. Johnson, Vice Chair; Morton, Ranking Minority Member; Stevens, Assistant Ranking Minority Member; Dunshee; Linville; Schoesler; Sheldon; Valle; and Wolfe.

Staff: Linda Byers (786-7129).

Background: Generally, persons who engage in forest practices relating to the growing, harvesting, and processing of timber are subject to a number of forest practices laws and regulations. Violators of these forest practices laws or regulations are subject to a civil penalty of up to \$500 for each violation. The Department of Natural Resources (DNR) may bring a civil action in Superior Court to collect civil penalties.

Certain forest practices may not be conducted unless an application for the practice has been approved by DNR or notification of the practice has been filed with the department. If an application or notification does not reveal that forest land will be converted within three years to a use other than commercial timber operations, then conversion within the three year period is not permitted without the consent of the city, town, or county with jurisdiction over the land.

DNR has the authority to enjoin any forest practices by any person who fails to comply with a final order or a final decision under the forest practices laws. The term of the injunction is one year following the person's failure to comply.

Summary of Amended Bill: The civil penalty for violation of forest practices laws or regulations is increased from \$500 to a maximum of \$10,000 per violation. The Department of Natural Resources may bring an action in district court, as well as in Superior Court, to collect penalties. The department is directed to develop a penalty schedule for recommendation to the Forest Practices Board. In designing the penalty schedule, DNR must consider the following factors: the person's previous violation history; the severity of the impact on public resources; whether the violation was intentional; cooperation with the department; repairability of the adverse effect from the violation; and the extent to which a penalty imposed on a forest landowner should be reduced because the violation was committed by another person. The Forest Practices Board must adopt a penalty schedule no later than January 1, 1994.

A person who, without the consent of the county, city, or town, converts forest land to a use other than commercial timber operation within three years after the completion of a forest practice is also subject to the increased civil penalty. Penalties for violations associated with a conversion to a use other than commercial timber operation shall be a lien on the real property of the person assessed the penalty.

The department's authority to enjoin forest practices for one year is eliminated. Instead, DNR may disapprove for up to one year any forest practices application or notification submitted by a person who has failed to comply with a final order or final decision, or who has failed to pay the civil penalties. DNR must provide written notice of its intent to disapprove an application or notification. The person receiving this notice may ask for a review of the matters by the Forest Practices Appeals Board.

Amended Bill Compared to Substitute Bill: The amended bill includes one additional element for DNR to consider when designing the new penalty schedule -- the extent to which a penalty imposed on a forest landowner should be reduced because the violation was committed by another person. Also, the effective date of subsections (1) and (3) through (7) of section 2 is delayed until January 1, 1994, the date by which the Forest Practices Board must adopt the new penalty schedule.

Fiscal Note: Available.

Effective Date of Amended Bill: Section 1 and subsection (2) of Section 2 take effect ninety days after adjournment of session in which bill is passed. Subsections (1) and (3) through (7) take effect January 1, 1994.

Testimony For: The various parties have worked hard to find a compromise and settle their differences regarding the language in this bill. The health of fish and shellfish depends on good forest practices, and the bill will encourage compliance with forest practices regulations. Local governments in urbanizing areas are having to deal with forest land conversion, and the bill will help them deal with this.

Testimony Against: It would be helpful to have specific language that says a landowner should not be penalized if a contract logger violates a forest practices regulation without the landowner's knowledge. There is no need to delay implementation of Section 1 of the bill.

Witnesses: Jennifer Belcher, Commissioner of Public Lands; Tim Boyd, Washington Forest Protection Association; Cyreis Schmitt, Department of Fisheries; Derek Poon, King County Environmental Division (all in favor); Nels Hanson, Washington Farm Forestry Association; Judy Turpin, Washington Environmental Council; and Jeff Parsons, National Audubon Society (all in favor, supporting some changes).