

HOUSE BILL REPORT

SHB 1322

As of House Second Reading
March 17, 1993

Title: An act relating to trespass or waste of public lands.

Brief Description: Modifying prosecutions for trespass or waste of public lands.

Sponsors: By House Committee on Natural Resources & Parks (originally sponsored by Representatives Sheldon, Morton, R. Johnson and Pruitt.)

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 23, 1993, DPS;
House Second Reading, March 17, 1993.

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pruitt, Chair; R. Johnson, Vice Chair; Morton, Ranking Minority Member; Dunshee; Linville; Schoesler; Sheldon; Thomas; Valle; and Wolfe.

Minority Report: Do not pass. Signed by 1 member: Representative Stevens, Assistant Ranking Minority Member.

Staff: Tim Burke (786-7103).

Background: Some public lands managed by the Department of Natural Resources have been seriously damaged by vandals. Also, persons, without authority, have occupied and used public lands and taken valuable materials from them. The law authorizes the state to bring a civil action to recover treble damages from a person who, without authorization, removes timber or Christmas trees from public lands. It does not authorize treble damages against a person who vandalizes public lands or who, without authorization, takes valuable materials from public lands, uses or occupies such lands, or causes property damage to them.

Under case law, it appears that a court may permit the state to recover its reasonable attorney's fees in cases where it recovers damages against a person who has wrongfully removed timber or other valuable materials from public lands or who

has engaged in wilful misconduct causing injury or waste to public lands.

Summary of Bill: The Department of Natural Resources is authorized to recover treble damages from a person who, without authorization, uses or occupies public lands, takes any kind of valuable resources or materials from public lands, or injures or causes waste to public lands. However, treble damages would not be permitted in cases where the person can prove that, at the time of the unauthorized act or acts, the person did not know, or have reason to know, that he or she lacked authorization. A person liable for treble damages under this measure is also liable for the state's reasonable costs, including administrative costs, survey costs, its attorney's fees and other legal costs. This measure does not apply in instances where liability for damages is provided under other statutes dealing with the unauthorized taking of timber and Christmas trees.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill is needed to discourage the abuse and unauthorized use of public lands and the conversion of public property on such lands. It is also needed to enable the state to recover all the damages and costs resulting therefrom.

Testimony Against: None.

Witnesses: Stan Biles, Department of Natural Resources (Pro); and Tim Boyd, Washington Forest Protection Association (Pro).