
SUBSTITUTE HOUSE BILL 1321

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Pruitt and R. Johnson)

Read first time 02/10/93.

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

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

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

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

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

33 (1) The department may, at its discretion, appoint trained
34 personnel possessing the necessary qualifications to carry out the
35 duties and supporting functions of the department and may determine
36 their respective salaries.

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

1 (3) The department shall:

2 (a) Enforce all laws within this chapter;

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

5 (c) Investigate the origin and cause of all forest fires to
6 determine whether either a criminal act or negligence by any person,
7 firm, or corporation caused the starting, existence, or spread of the
8 fire. In the course of an investigation, the department may apply for,
9 and the superior court may grant, an order authorizing the department
10 to take possession or control over any relevant evidence. However, the
11 department shall have authority, without court order, to take
12 possession or control of relevant evidence found in plain view. If the
13 owner of the property over which the department takes such possession
14 or control without court order provides the department with written
15 objections to the possession or control, the department must either
16 return the evidence within fifteen days after the day on which the
17 department is provided with the written objections or obtain a court
18 order authorizing such possession or control for a longer period.
19 Absent an authorizing court order, the department may not take
20 possession or control of evidence under this subsection if doing so
21 prohibits or in any way interferes with the legal obligation of an
22 electric utility to maintain or restore electric service to any
23 customer and if the utility objects. Evidence taken under such an
24 order may be taken only by qualified personnel and the department and
25 the utility shall cooperate in gathering, maintaining, and preserving
26 the evidence;

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

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

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

33 (4) The department may:

34 (a) Authorize all needful and proper expenditures for forest
35 protection;

36 (b) Adopt rules for the prevention, control, and suppression of
37 forest fires as it considers necessary including but not limited to:
38 Fire equipment and materials; use of personnel; and fire prevention
39 standards and operating conditions including a provision for reducing

1 these conditions where justified by local factors such as location and
2 weather;

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

5 (d) Inquire into:

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

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

10 (5) When the department considers it to be in the best interest of
11 the state, it may cooperate with any agency of another state, the
12 United States or any agency thereof, the Dominion of Canada or any
13 agency or province thereof, and any county, town, corporation,
14 individual, or Indian tribe within the state of Washington in forest
15 fire fighting and patrol.

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