
HOUSE BILL 2876

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Finkbeiner, Johanson and Heavey

Read first time 01/28/94. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to prohibiting exporting timber for processing;
2 amending RCW 76.09.170 and 76.09.190; adding a new section to chapter
3 76.09 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.09 RCW
6 to read as follows:

7 A person may not export timber cut or harvested from state-owned
8 properties from this state for processing.

9 **Sec. 2.** RCW 76.09.170 and 1993 c 482 s 2 are each amended to read
10 as follows:

11 (1) Every person who violates any provision of RCW 76.09.010
12 through 76.09.280, section 1 of this act, or of the forest practices
13 rules, or who converts forest land to a use other than commercial
14 timber operation within three years after completion of the forest
15 practice without the consent of the county, city, or town, shall be
16 subject to a penalty in an amount of not more than ten thousand dollars
17 for every such violation. Each and every such violation shall be a
18 separate and distinct offense. In case of a failure to comply with a

1 stop work order, every day's continuance shall be a separate and
2 distinct violation. Every person who through an act of commission or
3 omission procures, aids or abets in the violation shall be considered
4 to have violated the provisions of this section and shall be subject to
5 the penalty in this section. No penalty shall be imposed under this
6 section upon any governmental official, an employee of any governmental
7 department, agency, or entity, or a member of any board or advisory
8 committee created by this chapter for any act or omission in his or her
9 duties in the administration of this chapter or of any rule adopted
10 under this chapter.

11 (2) The department shall develop and recommend to the board a
12 penalty schedule to determine the amount to be imposed under this
13 section. The board shall adopt by rule, pursuant to chapter 34.05 RCW,
14 such penalty schedule to be effective no later than January 1, 1994.
15 The schedule shall be developed in consideration of the following:

16 (a) Previous violation history;

17 (b) Severity of the impact on public resources;

18 (c) Whether the violation of this chapter or its rules was
19 intentional;

20 (d) Cooperation with the department;

21 (e) Repairability of the adverse effect from the violation; and

22 (f) The extent to which a penalty to be imposed on a forest
23 landowner for a forest practice violation committed by another should
24 be reduced because the owner was unaware of the violation and has not
25 received substantial economic benefits from the violation.

26 (3) The penalty in this section shall be imposed by a notice in
27 writing, either by certified mail with return receipt requested or by
28 personal service, to the person incurring the same from the department
29 describing the violation with reasonable particularity. Within fifteen
30 days after the notice is received, the person incurring the penalty may
31 apply in writing to the department for the remission or mitigation of
32 such penalty. Upon receipt of the application, that department may
33 remit or mitigate the penalty upon whatever terms that department in
34 its discretion deems proper, provided the department deems such
35 remission or mitigation to be in the best interests of carrying out the
36 purposes of this chapter. The department shall have authority to
37 ascertain the facts regarding all such applications in such reasonable
38 manner and under such rule as it may deem proper.

1 (4) Any person incurring a penalty under this section may appeal
2 the penalty to the forest practices appeals board. Such appeals shall
3 be filed within thirty days of receipt of notice imposing any penalty
4 unless an application for remission or mitigation is made to the
5 department. When such an application for remission or mitigation is
6 made, such appeals shall be filed within thirty days of receipt of
7 notice from the department setting forth the disposition of the
8 application for remission or mitigation.

9 (5) The penalty imposed under this section shall become due and
10 payable thirty days after receipt of a notice imposing the same unless
11 application for remission or mitigation is made or an appeal is filed.
12 When such an application for remission or mitigation is made, any
13 penalty incurred under this section shall become due and payable thirty
14 days after receipt of notice setting forth the disposition of such
15 application unless an appeal is filed from such disposition. Whenever
16 an appeal of the penalty incurred is filed, the penalty shall become
17 due and payable only upon completion of all administrative and judicial
18 review proceedings and the issuance of a final decision confirming the
19 penalty in whole or in part.

20 (6) If the amount of any penalty is not paid to the department
21 within thirty days after it becomes due and payable, the attorney
22 general, upon the request of the department, shall bring an action in
23 the name of the state of Washington in the superior court of Thurston
24 county or of any county in which such violator may do business, to
25 recover such penalty. In all such actions the procedure and rules of
26 evidence shall be the same as an ordinary civil action except as
27 otherwise in this chapter provided. In addition to or as an
28 alternative to seeking enforcement of penalties in superior court, the
29 department may bring an action in district court as provided in Title
30 3 RCW, to collect penalties.

31 (7) Penalties imposed under this section for violations associated
32 with a conversion to a use other than commercial timber operation shall
33 be a lien upon the real property of the person assessed the penalty and
34 the department may collect such amount in the same manner provided in
35 chapter 60.04 RCW for mechanics' liens.

36 **Sec. 3.** RCW 76.09.190 and 1974 ex.s. c 137 s 19 are each amended
37 to read as follows:

1 In addition to the penalties imposed pursuant to RCW 76.09.170, any
2 person who conducts any forest practice or knowingly aids or abets
3 another in conducting any forest practice in violation of any
4 provisions of RCW 76.09.010 through 76.09.280, section 1 of this act,
5 or 90.48.420, or of the regulations implementing RCW 76.09.010 through
6 76.09.280, section 1 of this act, or 90.48.420, shall be guilty of a
7 gross misdemeanor and upon conviction thereof shall be punished by a
8 fine of not less than one hundred dollars nor more than one thousand
9 dollars, or by imprisonment for a term of not more than one year or by
10 both fine and imprisonment for each separate violation. Each day upon
11 which such violation occurs shall constitute a separate violation.

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