

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5025**

53rd Legislature  
1993 Regular Session

Passed by the Senate April 19, 1993  
YEAS 38 NAYS 4

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**President of the Senate**

Passed by the House April 13, 1993  
YEAS 61 NAYS 35

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**Speaker of the  
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5025** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5025**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1993 Regular Session

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** Senate Committee on Natural Resources (originally sponsored by Senator Owen)

Read first time 02/05/93.

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 such expenses incurred after June 30, 1993.

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

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

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

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

38 (3) The department shall:

1 (a) Enforce all laws within this chapter;

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

4 (c) Investigate the origin and cause of all forest fires to  
5 determine whether either a criminal act or negligence by any person,  
6 firm, or corporation caused the starting, spreading, or existence of  
7 the fire. In conducting investigations, the department shall work  
8 cooperatively, to the extent possible, with utilities, property owners,  
9 and other interested parties to identify and preserve evidence. Except  
10 as provided otherwise in this subsection, the department in conducting  
11 investigations is authorized, without court order, to take possession  
12 or control of relevant evidence found in plain view and belonging to  
13 any person, firm, or corporation. To the extent possible, the  
14 department shall notify the person, firm, or corporation of its intent  
15 to take possession or control of the evidence. The person, firm, or  
16 corporation shall be afforded reasonable opportunity to view the  
17 evidence and, before the department takes possession or control of the  
18 evidence, also shall be afforded reasonable opportunity to examine,  
19 document, and photograph it. If the person, firm, or corporation  
20 objects in writing to the department's taking possession or control of  
21 the evidence, the department must either return the evidence within  
22 seven days after the day on which the department is provided with the  
23 written objections or obtain a court order authorizing the continued  
24 possession or control.

25 Absent a court order authorizing otherwise, the department may not  
26 take possession or control of evidence over the objection of the owner  
27 of the evidence if: (i) The evidence is used by the owner in conducting  
28 a business or in providing an electric utility service; and (ii) the  
29 department's taking possession or control of the evidence would  
30 substantially and materially interfere with the operation of the  
31 business or provision of electric utility service.

32 Absent a court order authorizing otherwise, the department may not  
33 take possession or control of evidence over the objection of an  
34 electric utility when the evidence is not owned by the utility but has  
35 caused damage to property owned by the utility. However, this  
36 paragraph does not apply if the department has notified the utility of  
37 its intent to take possession or control of the evidence and provided  
38 the utility with reasonable time to examine, document, and photograph  
39 the evidence.

1       Only personnel qualified to work on electrical equipment may take  
2 possession or control of evidence owned or controlled by an electric  
3 utility;

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

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

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

10       (4) The department may:

11       (a) Authorize all needful and proper expenditures for forest  
12 protection;

13       (b) Adopt rules for the prevention, control, and suppression of  
14 forest fires as it considers necessary including but not limited to:  
15 Fire equipment and materials; use of personnel; and fire prevention  
16 standards and operating conditions including a provision for reducing  
17 these conditions where justified by local factors such as location and  
18 weather;

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

21       (d) Inquire into:

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

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

26       (5) When the department considers it to be in the best interest of  
27 the state, it may cooperate with any agency of another state, the  
28 United States or any agency thereof, the Dominion of Canada or any  
29 agency or province thereof, and any county, town, corporation,  
30 individual, or Indian tribe within the state of Washington in forest  
31 fire fighting and patrol.

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