

# FINAL BILL REPORT

## SHB 2941

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### FULL VETO

**Brief Description:** Limiting liability for utilities in protecting their facilities.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush).

**House Committee on Law & Justice**  
**Senate Committee on Energy & Utilities**

**Background:** When a person trespasses on another's land and injures or removes trees, timber, or shrubs, the owner of the land may bring an action for treble damages. Based on a recent state supreme court case, damages for emotional distress may be awarded in addition to treble damages.

This treble damage remedy is only available when the trespass is willful as opposed to casual or involuntary. Single damages are available when the trespass is casual or involuntary, or based on a mistaken belief of ownership of the land. In addition, when the tree or timber is removed from open woodlands in order to repair any public highway or bridge on adjoining land, the remedy for the timber trespass is single damages.

**Summary:** The Legislature finds that utilities provide an important public service, and vegetation growth can damage utility facilities and threaten public safety. The Legislature declares that when utilities remove vegetation from adjacent properties to maintain service and protect the public, utilities should be immune from liability under certain circumstances.

A utility is immune from liability for cutting or removing vegetation when the utility provides notice and/or secures agreement from the property owner or resident in the following situations: (1) when a utility cuts or removes vegetation that damages utility facilities, and the utility makes a reasonable effort as soon as practical to notify and secure agreement regarding the disposal of any vegetation that has been cut or removed; (2) when a utility cuts or removes vegetation that poses an imminent threat to damage utility facilities, and it makes a reasonable effort to notify and secure agreement regarding the cutting or removal and disposal of any vegetation on the land adjacent to the utility facilities; and (3) when vegetation encroaches upon utility facilities, and the utility secures an agreement regarding the cutting or removal and disposal of any vegetation on the land adjacent to the utility facilities.

When damages are awarded for cutting natural vegetation, the damages are limited to stumpage value only. Utilities are not liable for emotional distress damages for cutting or removing trees, timber, or shrubs located on adjacent land.

A utility facility generally includes any property or easement used, owned, or controlled by an electric, water, or sewer utility or a natural gas or telecommunications company, for the purposes of manufacturing, transmitting, distributing, selling or furnishing electricity, water, sewer, natural gas, or telecommunications services. Natural vegetation is any tree indigenous to the area that grew naturally and was not planted for aesthetic or commercial purposes.

**Votes on Final Passage:**

House 97 1

Senate 48 0 (Senate amended)

House 95 0 (House concurred)