

2941-S

Sponsor(s): House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush)

Brief Title: Limiting liability for utilities in protecting their facilities.

HB 2941-S - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Declares that a utility is immune from liability under RCW 64.12.030 and 64.12.040, when it cuts or removes any trees, timber, or shrubs that: (1) Have damaged utility facilities or pose a hazard to the general public health, safety, or welfare and the utility makes a reasonable effort as soon as practical to notify and secure agreement from an adjacent land or property owner of record, or the resident of the property, regarding the disposal of any trees, timber, or shrubs that have been cut or removed by the utility;

(2) pose an imminent threat to damage utility facilities and the utility makes a reasonable effort to notify and secure agreement from an adjacent land or property owner of record, or the resident of the property, regarding the cutting or removal and disposal of any trees, timber, or shrubs located on land or property adjacent to utility facilities; or

(3) encroached upon utility facilities and the utility secures an agreement from an adjacent land or property owner of record, or the resident of the property, regarding the cutting or removal and disposal of any trees, timber, or shrubs located on land or property adjacent to utility facilities.

VETO MESSAGE ON HB 2941-S

April 2, 1998

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 2941 entitled:

"AN ACT Relating to limiting the liability of utilities for efforts undertaken to protect their facilities from adjacent vegetation;"

This bill would address the question of when utilities should or should not be liable for cutting or removing trees and shrubs that belong to another property owner. I understand that utilities need to be able to take reasonable steps to maintain safe and reliable lines and other facilities « which at times may include removing or cutting other peoples' trees and shrubs « without threat of unjustified lawsuits.

However, this bill is poorly drafted; it is overly broad and confusing. For example, under this bill a utility would be immune from liability for cutting trees belonging to a land owner if it got permission from the neighbor « regardless of whether the

neighbor had authorization. The Legislature needs to more carefully define "utility" and "utility facilities." I am also concerned about the standards of care this bill would require for a utility to avoid liability and to enjoy limited liability, including avoiding damages for emotional distress.

The Legislature should also revisit the appropriate damages for cutting or removing indigenous trees. I do not believe it is clear how amendments to the timber trespass statute (Chapter 64.12 RCW) affect the operation of our more general trespass damage statute (RCW 4.24.630).

For these reasons, I have vetoed Substitute House Bill No. 2941 in its entirety.

Respectfully submitted,
Gary Locke
Governor