

2 **SSB 5154** - H COMM AMD **ADOPTED 4-14-99**
3 By Committee on Judiciary

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5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 64.12 RCW
8 to read as follows:

9 (1) An electric utility is immune from liability under RCW
10 64.12.030, 64.12.040, and 4.24.630 and any claims for general or
11 special damages, including claims of emotional distress, for cutting or
12 removing vegetation located on or originating from land or property
13 adjacent to electric facilities that:

14 (a) Has come in contact with or caused damage to electric
15 facilities;

16 (b) Poses an imminent hazard to the general public health, safety,
17 or welfare and the electric utility makes a reasonable effort under the
18 circumstances to obtain an agreement from the resident or property
19 owner present on the property to trim or remove such hazard. If
20 necessary, the electric utility may act without an agreement where no
21 such person is present or to protect life, property, or to restore
22 electrical service; or

23 (c) Poses a potential threat to damage electric facilities and the
24 electric utility attempts written notice by mail to the last known
25 address of record indicating the intent to act or remove vegetation and
26 secures agreement from the affected property owner of record for the
27 cutting, removing, and disposition of the vegetation. Such notice
28 shall include a brief statement of the need and nature of the work
29 intended that will impact the owner's property or vegetation, a good
30 faith estimate of the time frame in which such work will occur, and how
31 the utility can be contacted regarding the cutting or removal of
32 vegetation. If the affected property owner fails to respond to a
33 notice from the electric utility within two weeks of the date the
34 electric utility provided notice, the electric utility may secure
35 agreement from a resident of the affected property for the cutting,
36 removing, and disposition of vegetation.

1 (2)(a) A hazard to the general public health, safety, or welfare is
2 deemed to exist when:

3 (i) Vegetation has encroached upon electric facilities by
4 overhanging or growing in such close proximity to overhead electric
5 facilities that it constitutes an electrical hazard under applicable
6 electrical construction codes or state and federal health and safety
7 regulations governing persons who are employed or retained by, or on
8 behalf of, an electric utility to construct, maintain, inspect, and
9 repair electric facilities or to trim or remove vegetation; or

10 (ii) Vegetation is visibly diseased, dead, or dying and has been
11 determined by a qualified forester or certified arborist employed or
12 retained by, or on behalf of, an electric utility to be of such
13 proximity to electric facilities that trimming or removal of the
14 vegetation is necessary to avoid contact between the vegetation and
15 electric facilities.

16 (b) The factors to be considered in determining the extent of
17 trimming required to remove a hazard to the general public health,
18 safety, or welfare may include normal tree growth, the combined
19 movement of trees and conductors under adverse weather conditions,
20 voltage, and sagging of conductors at elevated temperatures.

21 (3) A potential threat to damage electric facilities exists when
22 vegetation is of such size, condition, and proximity to electric
23 facilities that it can be reasonably expected to cause damage to
24 electric facilities and, based upon this standard, the vegetation has
25 been determined to pose a potential threat by a qualified forester or
26 certified arborist employed or retained by or on behalf of an electric
27 utility.

28 (4) For the purposes of this section:

29 (a) "Electric facilities" means lines, conduits, ducts, poles,
30 wires, pipes, conductors, cables, cross-arms, receivers, transmitters,
31 transformers, instruments, machines, appliances, instrumentalities, and
32 all devices and apparatus used, operated, owned, or controlled by an
33 electric utility, for the purposes of manufacturing, transforming,
34 transmitting, distributing, selling, or furnishing electricity.

35 (b) "Electric utility" means an electrical company, as defined
36 under RCW 80.04.010, a municipal electric utility formed under Title 35
37 RCW, a public utility district formed under Title 54 RCW, an irrigation
38 district formed under chapter 87.03 RCW, a cooperative formed under
39 chapter 23.86 RCW, and a mutual corporation or association formed under

1 chapter 24.06 RCW, that is engaged in the business of distributing
2 electricity in the state.

3 (c) "Vegetation" means trees, timber, or shrubs.

4 **Sec. 2.** RCW 4.24.630 and 1994 c 280 s 1 are each amended to read
5 as follows:

6 (1) Every person who goes onto the land of another and who removes
7 timber, crops, minerals, or other similar valuable property from the
8 land, or wrongfully causes waste or injury to the land, or wrongfully
9 injures personal property or improvements to real estate on the land,
10 is liable to the injured party for treble the amount of the damages
11 caused by the removal, waste, or injury. For purposes of this section,
12 a person acts "wrongfully" if the person intentionally and unreasonably
13 commits the act or acts while knowing, or having reason to know, that
14 he or she lacks authorization to so act. Damages recoverable under
15 this section include, but are not limited to, damages for the market
16 value of the property removed or injured, and for injury to the land,
17 including the costs of restoration. In addition, the person is liable
18 for reimbursing the injured party for the party's reasonable costs,
19 including but not limited to investigative costs and reasonable
20 attorneys' fees and other litigation-related costs.

21 (2) This section does not apply in any case where liability for
22 damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, ~~((or))~~
23 79.40.070, or where there is immunity from liability under section 1 of
24 this act.

25 NEW SECTION. **Sec. 3.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected."

29 Correct the title.

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