

---

HOUSE BILL 3002

---

State of Washington

56th Legislature

2000 Regular Session

By Representatives Huff, Doumit, Radcliff, Hatfield, Cairnes, Clements, Campbell, Kessler, Parlette, McDonald, Lisk, Mulliken, Woods, Sump, Alexander, Ogden, Wensman, Benson, D. Sommers, B. Chandler, Dunn, Edwards and Mitchell

Read first time 01/25/2000. Referred to Committee on Natural Resources.

1 AN ACT Relating to implementing and enforcing the federal  
2 prohibition against export from the United States of unprocessed timber  
3 from lands owned by the state; adding a new chapter to Title 43 RCW;  
4 prescribing penalties; providing a contingent effective date; and  
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) The state of Washington and its political subdivisions own a  
9 substantial amount of public land from which timber is sold. Revenues  
10 from those timber sales provide financial support for public schools,  
11 other state institutions, and other state and local government programs  
12 that otherwise would be more dependent on tax revenues or might have to  
13 curtail their public services.

14 (b) The state and its political subdivisions hold public lands in  
15 trust for public institutions and programs, with fiduciary duties to  
16 manage those lands for the exclusive benefit of the designated  
17 beneficiaries subject to compliance with applicable law. To help  
18 fulfill those fiduciary duties, state and local agencies rely on

1 competitive bidding to ensure that full market value is paid when  
2 public timber is sold.

3 (c) The federal government has prohibited export from the United  
4 States of unprocessed timber from lands owned by the state and its  
5 political subdivisions, and has given the state the option of either  
6 adopting its own program to enforce that prohibition or allowing the  
7 federal government to enforce it. If the federal government enforces  
8 the export prohibition, it may also restrict eligibility to purchase  
9 unprocessed timber from such lands in ways that further reduce  
10 competition for public timber and thus reduce timber sale revenues  
11 received by the beneficiaries for which public lands are being managed.

12 (d) Therefore, it is in the best interest of the trust  
13 beneficiaries and the public for the state to adopt its own program to  
14 enforce the federal prohibition on export of unprocessed timber from  
15 state and local government lands while maintaining, to the maximum  
16 extent allowed by federal law, competitive markets for timber sold by  
17 state and local agencies.

18 (2) It is the policy of the state that:

19 (a) Export of unprocessed timber from lands owned by the state and  
20 its political subdivisions be prohibited to the extent required by  
21 federal law.

22 (b) The state enforce that prohibition while maintaining, to the  
23 extent allowed by federal law, competitive markets for timber sold by  
24 the state and local governments, rather than allow competition for that  
25 timber to be unnecessarily restricted in ways that prevent state and  
26 local agencies from obtaining full market value for the timber they  
27 sell.

28 (c) This chapter and any implementing rules adopted by the  
29 department of revenue shall be submitted to the secretary of commerce  
30 for approval under 16 U.S.C. Sec. 620c(d)(2).

31 NEW SECTION. **Sec. 2.** The definitions in this section apply  
32 throughout this chapter unless the context clearly requires otherwise.

33 (1) "Person" means any individual, partnership, corporation,  
34 association, or other legal entity, and includes any subsidiary,  
35 subcontractor, or parent company, and business affiliates where one  
36 affiliate controls or has the power to control the other or when both  
37 are controlled directly or indirectly by a third person.

1 (2) "Public lands" means lands that are held or owned by the state  
2 of Washington or any political subdivision thereof, or by any public  
3 agency of the state of Washington or any political subdivision thereof.

4 (3) "Secretary of commerce" means the secretary of commerce of the  
5 United States or the federal official authorized to approve state  
6 programs under 16 U.S.C. Sec. 620c(d)(2) to serve in lieu of federal  
7 rules that otherwise would apply under 16 U.S.C. Sec. 620c(d)(1).

8 (4) "Unprocessed timber" means trees or portions of trees or other  
9 roundwood that is defined by the federal government as "unprocessed"  
10 for purposes of 16 U.S.C. Sec. 620c. It does not include timber  
11 processed into any one of the following:

12 (a) Lumber or construction timbers, except western red cedar,  
13 meeting current American lumber standards grades or pacific lumber  
14 inspection bureau export R or N list grades, sawn on four sides, not  
15 intended for remanufacture;

16 (b) Lumber, construction timbers, or cants for remanufacture,  
17 except western red cedar, meeting current American lumber standards  
18 grades or pacific lumber inspection bureau export R or N list clear  
19 grades, sawn on four sides, not to exceed twelve inches in thickness;

20 (c) Lumber, construction timbers, or cants for remanufacture,  
21 except western red cedar, that do not meet the grades referred to in  
22 (b) of this subsection and are sawn on four sides, with wane less than  
23 one-quarter of any face, not exceeding eight and three-fourths inches  
24 in thickness;

25 (d) Chips, pulp, or pulp products;

26 (e) Veneer or plywood;

27 (f) Poles, posts, or piling cut or treated with preservatives for  
28 use as such;

29 (g) Shakes or shingles;

30 (h) Aspen or other pulpwood bolts, not exceeding one hundred inches  
31 in length, exported for processing into pulp; or

32 (i) Pulp logs, cull logs, and incidental volumes of grade three and  
33 four sawlogs processed at domestic pulp mills, domestic chip plants, or  
34 other domestic operations for the primary purpose of conversion of the  
35 logs into chips, or to the extent that a small quantity of such logs  
36 are processed, into other products at domestic processing facilities.

37 NEW SECTION. **Sec. 3.** (1) The export of unprocessed timber from  
38 public lands by any person is prohibited. This prohibition is intended

1 to implement, with respect to unprocessed timber originating from  
2 public lands in this state, the prohibition on exports set forth in any  
3 applicable order of the secretary of commerce issued under subsection  
4 (a) of 16 U.S.C. Sec. 620c, as that provision may be amended from time  
5 to time.

6 (2) The species, grades, and geographic origin of unprocessed  
7 timber prohibited from export shall be representative of the species,  
8 grades, and geographic origin of timber comprising the total public  
9 land timber sales program in this state. The department of revenue may  
10 adopt rules, if necessary, to ensure that result.

11 NEW SECTION. **Sec. 4.** (1) The department of revenue shall  
12 administer and enforce this chapter and any implementing rules adopted  
13 under this chapter. State and local timber sale contracts subject to  
14 this chapter may include provisions to facilitate the enforcement of  
15 this chapter, and the provisions may be enforced by either the selling  
16 agency or the department of revenue. The department of revenue may  
17 recommend such contract provisions and assist state and local agencies  
18 in enforcing them.

19 (2) The department of revenue may assess and collect civil  
20 penalties for violation of section 3 of this act in amounts up to ten  
21 thousand dollars, or three times the value of unprocessed timber from  
22 public lands that was unlawfully exported, whichever is greater.

23 (3) Any person who knowingly violates section 3 of this act is  
24 guilty of a gross misdemeanor, punishable under RCW 9A.20.021(2), or if  
25 previously convicted of the same offense within the prior five years,  
26 a class C felony, punishable under RCW 9A.20.021(1)(c).

27 NEW SECTION. **Sec. 5.** (1) The governor shall submit this chapter,  
28 and any implementing rules adopted by the department of revenue, to the  
29 secretary of commerce for approval under 16 U.S.C. Sec. 620c(d)(2), and  
30 provide any information reasonably requested by the secretary of  
31 commerce for the purpose of determining whether this program:

32 (a) Implements, with respect to unprocessed timber originating from  
33 public lands in this state, the prohibition on exports set forth in the  
34 secretary of commerce's order under subsection (a) of 16 U.S.C. Sec.  
35 620c; and

36 (b) Ensures that the species, grades, and geographic origin of  
37 unprocessed timber prohibited from export within this state is

1 representative of the species, grades, and geographic origin of timber  
2 comprising the total timber sales program in this state.

3 (2) If the secretary of commerce will not approve the state program  
4 as submitted, the department of revenue may adopt rules to correct  
5 those deficiencies the secretary of commerce found to preclude approval  
6 under 16 U.S.C. Sec. 620c(d)(2), while maintaining domestic competition  
7 for timber from public lands to the maximum extent allowed by federal  
8 law.

9 NEW SECTION. **Sec. 6.** On request of the holder of any contract for  
10 the sale of unprocessed timber that contains provisions implementing  
11 department of revenue rules in existence on the effective date of this  
12 section, the selling agency may amend the contract to conform to this  
13 chapter and to rules adopted under this chapter.

14 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute  
15 a new chapter in Title 43 RCW.

16 NEW SECTION. **Sec. 8.** Section 5 of this act is necessary for the  
17 immediate preservation of the public peace, health, or safety, or  
18 support of the state government and its existing public institutions  
19 and takes effect immediately.

20 NEW SECTION. **Sec. 9.** Sections 1 through 4 and 6 of this act take  
21 effect upon the approval of this act and related regulations by the  
22 secretary of commerce under 16 U.S.C. Sec. 620c(d)(2).

--- END ---