
SUBSTITUTE SENATE BILL 5154

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Hargrove, McCaslin, Goings and Heavey)

Read first time 02/18/1999.

1 AN ACT Relating to limiting the liability of electric utilities for
2 efforts undertaken to protect their facilities from damage that might
3 be caused by vegetation; amending RCW 4.24.630; and adding a new
4 section to chapter 64.12 RCW.

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

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

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

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

15 (b) Poses a hazard to the general public health, safety, or welfare
16 and the electric utility makes a reasonable effort as soon as
17 practicable to notify and secure agreement from the affected property
18 owner of record, or the resident of the affected property, regarding

1 the disposition of the vegetation that has been cut or removed by the
2 utility; or

3 (c) Poses a potential threat to damage electric facilities and the
4 electric utility attempts written notice by mail to the last known
5 address of record indicating the intent to act or remove vegetation and
6 secures agreement from the affected property owner of record for the
7 cutting, removing, and disposition of the vegetation. If the affected
8 property owner fails to respond to a notice from the electric utility
9 within two weeks of the date the electric utility provided notice, the
10 electric utility may secure agreement from a resident of the affected
11 property for the cutting, removing, and disposition of vegetation.

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

14 (i) Vegetation has encroached upon electric facilities by
15 overhanging, or growing in such close proximity to overhead electric
16 facilities that it constitutes an electrical hazard under applicable
17 electrical construction codes or state and federal health and safety
18 regulations governing persons who are employed or retained by, or on
19 behalf of, an electric utility to construct, maintain, inspect, and
20 repair electric facilities or to trim or remove vegetation; or

21 (ii) Vegetation is visibly diseased, dead, or dying and has been
22 determined by a qualified forester or certified arborist employed or
23 retained by, or on behalf of, an electric utility to be of such
24 proximity to electric facilities that trimming or removal of the
25 vegetation is necessary to avoid contact between the vegetation and
26 electric facilities.

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

32 (3) A potential threat to damage electric facilities exists when
33 vegetation is of such size, condition, and proximity to electric
34 facilities that it can be reasonably expected to cause damage to
35 electric facilities and, based upon this standard, the vegetation has
36 been determined to pose a potential threat by a qualified forester or
37 certified arborist employed or retained by or on behalf of an electric
38 utility.

39 (4) For the purposes of this section:

1 (a) "Electric facilities" means lines, conduits, ducts, poles,
2 wires, pipes, conductors, cables, cross-arms, receivers, transmitters,
3 transformers, instruments, machines, appliances, instrumentalities,
4 real estate, easements acquired by title or implied consent, property,
5 and routes used, operated, owned, maintained, or controlled under
6 agreement, written or implied, and all devices and apparatus used,
7 operated, owned, or controlled by an electric utility, for the purposes
8 of manufacturing, transforming, transmitting, distributing, selling, or
9 furnishing electricity.

10 (b) "Electric utility" means an electrical company, as defined
11 under RCW 80.04.010, a municipal electric utility formed under Title 35
12 RCW, a public utility district formed under Title 54 RCW, an irrigation
13 district formed under chapter 87.03 RCW, a cooperative formed under
14 chapter 23.86 RCW, and a mutual corporation or association formed under
15 chapter 24.06 RCW, that is engaged in the business of distributing
16 electricity in the state.

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

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

20 (1) Every person who goes onto the land of another and who removes
21 timber, crops, minerals, or other similar valuable property from the
22 land, or wrongfully causes waste or injury to the land, or wrongfully
23 injures personal property or improvements to real estate on the land,
24 is liable to the injured party for treble the amount of the damages
25 caused by the removal, waste, or injury. For purposes of this section,
26 a person acts "wrongfully" if the person intentionally and unreasonably
27 commits the act or acts while knowing, or having reason to know, that
28 he or she lacks authorization to so act. Damages recoverable under
29 this section include, but are not limited to, damages for the market
30 value of the property removed or injured, and for injury to the land,
31 including the costs of restoration. In addition, the person is liable
32 for reimbursing the injured party for the party's reasonable costs,
33 including but not limited to investigative costs and reasonable
34 attorneys' fees and other litigation-related costs.

35 (2) This section does not apply in any case where liability for
36 damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, or
37 79.40.070.

1 (3) This section does not apply to an electric utility under
2 section 1 of this act.

3 NEW SECTION. **Sec. 3.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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