
SENATE BILL 5642

State of Washington

56th Legislature

1999 Regular Session

By Senators Rasmussen and Morton

Read first time 02/01/1999. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to licensing consulting foresters; adding a new
2 chapter to Title 18 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that it is a matter of
5 public necessity that forest resources in Washington be managed
6 properly. It is the intent of the legislature to provide for the
7 protection and benefit of the public by ensuring application of the
8 highest standards relative to the practice of consulting forestry and
9 to provide protection of the public from unqualified consulting
10 forestry practitioners.

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

13 (1) "Board" means the state board of consulting foresters.

14 (2) "Department" means the department of licensing.

15 (3) "Consulting forester" means a person who, by reason of his or
16 her knowledge of the natural sciences, mathematics, and the principles
17 of forestry acquired by forestry education or experience, performs
18 forestry services for the public on a fee basis, including but not

1 limited to, consultation, investigation, evaluation, planning, or
2 responsible supervision of forestry activities when the services
3 require the application of forestry principles and techniques.

4 (4) "Consulting forestry" means all professional services relating
5 to the forest resources of the state that require the application of
6 forestry principles, data, and techniques as acquired by experience,
7 training, and education. Such services include, but are not limited
8 to, consultation, investigations, evaluations, planning, and the
9 formation and implementation of forestry policies when such activities
10 require the application of forestry practices, data, and techniques.

11 (5) "Forestry" means the science and practice of managing forested
12 landscapes and the treatment of the forest cover in general, and
13 includes, among other things, the application of scientific knowledge
14 and forestry principles in the fields of fuel management and forest
15 protection, timber growing and utilization, forest inventories, forest
16 economics, forest valuation and finance, and the evaluation and
17 mitigation of impacts from forestry activities on watershed values, to
18 achieve the purposes of this chapter. The practice of forestry applies
19 only to those activities undertaken on forested landscapes. "Forestry"
20 shall not include those activities performed by wildlife biologists,
21 fisheries biologists, botanists, ecological restorationists, stream
22 restorationists, hydrologists, or geologists.

23 (6) "Government forester" means any forester who is a regular full-
24 time employee of a federal, state, or local governmental entity engaged
25 in the management of public lands or renders extension forestry
26 services to the public.

27 (7) "Industrial forestry business" means a private business which
28 possesses expertise in practicing forestry, or that is engaged in the
29 manufacture of wood products from raw materials harvested from the
30 business's own land.

31 (8) "Person" means a natural person.

32 NEW SECTION. **Sec. 3.** No person shall receive income, whether
33 directly or indirectly, for engaging in the practice of consulting
34 forestry, or advertise as engaging in such practice, or solicit
35 business in such practice, including but not limited to foresters whose
36 responsibilities include industry-sponsored forestry assistance
37 programs for landowners, unless the person holds a valid license issued
38 by the board. This section shall not prohibit, prevent, or affect:

1 (1) Any person from practicing forestry on his or her own land,
2 including application for forest practices permits;

3 (2) Any government forester from practicing forestry on government
4 land;

5 (3) Any person from practicing any other recognized profession or
6 trade, including but not limited to vendors of tree planting, timber
7 stand improvement practices, pesticide application, pest control, site
8 preparation, heavy equipment, fire control activities, and timber
9 harvesting;

10 (4) Any person employed or contracted by an industrial forestry
11 business from practicing forestry on the business's land;

12 (5) An industrial forestry business from engaging the services of
13 an independent contractor to perform forestry tasks and projects
14 directed or designed by the business; or

15 (6) Any person from practicing forestry under the direct
16 supervision of a licensed consulting forester.

17 NEW SECTION. **Sec. 4.** There is created a state board of consulting
18 foresters within the department to administer the provisions of this
19 chapter. The board shall consist of five members appointed by the
20 governor as follows: Three members shall be consulting foresters, two
21 of whom shall be appointed from a list of at least three names
22 submitted by nationally recognized professional forestry societies and
23 associations; two members shall be members of the public, one of whom
24 shall be appointed from a list of at least three names submitted by a
25 recognized state-wide organization representing nonindustrial forest
26 landowners; and the remaining public member shall be a person who is
27 not, and never has been, a member of the forestry profession, or a
28 relative of such a person, and who does not have and never has had, a
29 material financial interest in the provision of forestry services or in
30 an activity directly related to forestry. Each consulting forester
31 member shall have actively practiced the profession of consulting
32 forestry for at least ten years prior to appointment.

33 NEW SECTION. **Sec. 5.** (1) The initial members of the board shall
34 serve for the following terms: One member for one year, one member for
35 two years, one member for three years, one member for four years, and
36 one member for five years. All five members of the first board must be

1 appointed on the same date and shall serve their respective terms from
2 the date of appointment.

3 (2) By virtue of their appointment, the initial three consulting
4 forester members of the board shall issue to themselves the licenses as
5 consulting foresters and pay the fees required under this chapter once
6 the fees are established. After the initial three consulting forester
7 members of the board have so qualified and been administered their
8 oaths of office, no person shall be appointed as a consulting forester
9 member of the board unless such person, at the time appointed, is a
10 licensed consulting forester under this chapter.

11 (3) On the expiration of the term of each member, the governor
12 shall appoint a successor to serve for a term of five years. Members
13 of the board hold their offices until their successors are appointed.
14 No member shall serve more than two consecutive terms.

15 (4) A quorum of the board shall be three members.

16 (5) The governor may remove any member of the board for cause.
17 Vacancies on the board shall be filled by appointment for the unexpired
18 term.

19 (6) In carrying out the provisions of this chapter, the members of
20 the board shall be reimbursed for travel expenses in accordance with
21 RCW 43.03.050 and 43.03.060.

22 NEW SECTION. **Sec. 6.** The board has the following powers and
23 duties:

24 (1) To adopt rules governing the holding of meetings and hearings,
25 applications for licenses, and any other duties necessary for the
26 administration of this chapter;

27 (2) To establish and issue standards of practice and a code of
28 ethics for consulting foresters and provide for the enforcement of such
29 standards and the code of ethics;

30 (3) To establish minimum requirements for professional continuing
31 education;

32 (4) To prepare a biennial roster of the names, business addresses,
33 and other information as the board deems necessary of all licensed
34 consulting foresters licensed under this chapter;

35 (5) To issue, suspend, or revoke licenses;

36 (6) To investigate and conduct hearings concerning alleged
37 violations of this chapter; and

1 (7) To keep a record of its proceedings and a register of all
2 applicants for licensing.

3 NEW SECTION. **Sec. 7.** (1) The minimum requirements for licensure
4 as a consulting forester prior to January 1, 2002, are:

5 (a) Evidence of seven or more years' experience in practicing
6 forestry or performing the services of a consulting forester that is
7 satisfactory to the board; or

8 (b) Passage of a written examination administered by the board
9 indicating that the applicant is competent to practice consulting
10 forestry.

11 (2) The minimum requirements for licensure after January 1, 2002,
12 are:

13 (a) Graduation in forestry or a related field, requiring study of
14 four years or more, from a school, college, or university approved by
15 the board;

16 (b) Evidence of five or more years' experience in practicing
17 forestry or performing the services of a consulting forester
18 satisfactory to the board; and

19 (c) Passage of a written examination administered by the board
20 indicating that the applicant is competent to practice consulting
21 forestry.

22 Evidence of seven or more years' experience in practicing forestry
23 or performing the services of a consulting forester satisfactory to the
24 board may substitute for the education and experience requirements of
25 (a) and (b) of this subsection.

26 NEW SECTION. **Sec. 8.** An application for a consulting forester
27 license shall be filed with the board before the date set for
28 examination. The application fee shall be determined by the board and
29 shall include a nonrefundable examination fee and a fee for issuance of
30 the license. The examination fee must be paid to the board by thirty
31 days before the date of the examination.

32 NEW SECTION. **Sec. 9.** (1) Examinations of applicants for licenses
33 shall be held at least annually and at such times and places as the
34 board may determine.

35 (2) The scope of the examination and methods of procedure shall be
36 prescribed by the board. The examination must cover timber management,

1 including the ability to evaluate and appraise timber, use of
2 contracts, applicable state statutes and rules, including labor and
3 industries, and similar subjects necessary to the practice of
4 consulting forestry.

5 NEW SECTION. **Sec. 10.** The board shall issue a license with a
6 license number, upon payment of the license fee, to a qualified
7 applicant who is certified by the board as having passed the required
8 examination and as having given satisfactory proof of completion of the
9 required experience to the board and who, in the opinion of the board,
10 has satisfactorily met all the requirements of this chapter and the
11 rules of the board.

12 NEW SECTION. **Sec. 11.** All plans, maps, specifications, and
13 reports issued by a licensed consulting forester shall be endorsed with
14 the name of the licensed consulting forester and a license number. No
15 licensed consulting forester shall endorse any plan, specification,
16 estimate, map, or related document unless he or she actually prepared
17 or directly supervised the preparation of such document.

18 NEW SECTION. **Sec. 12.** No business, partnership, or corporation
19 may be licensed to practice consulting forestry. Licensing shall be
20 determined on the basis of individual personal qualifications.

21 NEW SECTION. **Sec. 13.** (1) The initial license expires on the
22 second anniversary of the licensee's birthday following the issuance of
23 the license and biennially thereafter.

24 (2) A licensee may renew a license prior to its expiration by
25 paying any required license renewal fee to the board and submitting
26 proof of compliance with continuing education requirements.

27 NEW SECTION. **Sec. 14.** The board, upon application and payment of
28 a fee determined by the board, may issue a license without further
29 examination to a person who is legally licensed as a consulting
30 forester in a state other than Washington and meets requirements set by
31 the board. The requirements for licensure in the person's licensing
32 state must be substantially equivalent to the requirements of this
33 chapter and the state in which he or she is so licensed must observe
34 the same rules of reciprocity granted under this chapter.

1 NEW SECTION. **Sec. 15.** The board has the power, after notice and
2 hearing, to suspend or revoke the license of any licensee or assess
3 administrative penalties against a licensee who:

4 (1) Is found liable for fraud, deceit, gross negligence, gross
5 incompetency, or gross misconduct in the practice of consulting
6 forestry;

7 (2) Is found liable by the board of unprofessional or unethical
8 conduct;

9 (3) Has had his or her license suspended or revoked for cause in
10 another jurisdiction;

11 (4) Fails to comply with the continuing education requirements
12 established by the board;

13 (5) Has directly or indirectly through another person or entity,
14 purchased or attempted to purchase timber from a landowner while
15 providing forestry services for the landowner;

16 (6) Gives false or forged evidence of any kind to the board in
17 obtaining a license;

18 (7) Uses an expired or revoked license; or

19 (8) Endorses any plan, specification, estimate, map, or related
20 document unless he or she actually prepared or directly supervised the
21 preparation of such document.

22 NEW SECTION. **Sec. 16.** (1) If, after investigation, the board
23 determines there is reason to believe a violation of this chapter has
24 taken place, the board shall prepare a statement of allegations and
25 serve the statement on the licensee or license applicant. All
26 procedures related to hearings shall be in accordance with the
27 administrative procedure act, chapter 34.05 RCW.

28 (2) In conducting hearings, any member of the board may administer
29 oaths to witnesses appearing before the board, subpoena witnesses and
30 compel their attendance, and require the production of books, records,
31 papers, and documents. If any person refuses to obey any subpoena
32 issued, or refuses to testify or to produce any books, records, papers,
33 or documents required to be produced, the board may present a petition
34 to the superior court of the county in which the person resides,
35 setting forth the facts, and the court may, in a proper case, enter an
36 order compelling compliance with this chapter and imposing other terms
37 and conditions as the court deems equitable.

1 (3) Any person who feels aggrieved by any action of the board may
2 appeal to the superior court of the county in which he or she resides.
3 The court shall review the board's proceedings on the record presented
4 and may, in a proper case, sustain or dismiss the appeal, or modify or
5 vacate the board's order. However, in case the order is modified or
6 vacated, the court may also, in its discretion, remand the matter to
7 the board for further proceedings consistent with the court's order.

8 NEW SECTION. **Sec. 17.** (1) It is a misdemeanor for any person to:

9 (a) Practice consulting forestry without being licensed in
10 accordance with this chapter;

11 (b) Use in connection with his or her name, or otherwise assume,
12 use, or advertise any title or description tending to convey the
13 impression that he or she is a licensed consulting forester without
14 being licensed in accordance with this chapter;

15 (c) Present or attempt to use as his or her own the license of
16 another;

17 (d) Give false or forged evidence of any kind to the board in
18 obtaining a license;

19 (e) Use an expired or revoked license; or

20 (f) Endorse any plan, specification, estimate, map, or related
21 document unless he or she actually prepared or directly supervised the
22 preparation of such document.

23 (2) The board shall refer criminal violations of this chapter to
24 the appropriate prosecuting attorney for prosecution. A person
25 convicted of a misdemeanor shall be punished according to RCW 9.92.030.

26 (3) The state attorney general or his or her designated assistant
27 shall act as legal advisor to the board and render such assistance as
28 may be necessary in carrying out the provisions of this chapter.

29 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act
30 constitute a new chapter in Title 18 RCW.

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