

Judiciary Committee

HB 1178

Title: *An act relating to placement of large woody debris.*

Brief Description: *Placing large woody debris into rivers and streams.*

Sponsors: *Representative Ericksen.*

Brief Summary of Bill

- *Provides immunity from liability to landowners, volunteers, and project sponsors who place large woody debris into a stream or river in accordance with a hydraulic permit and generally accepted guidelines.*

Hearing Date: *2/8/01*

Staff: *Trudes Hutcheson (786-7384).*

Background:

The Department of Fish and Wildlife has, as one of its duties, the responsibility to preserve and protect fish and shellfish in the state.

When any person or agency wants to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person or agency must first obtain a permit called a hydraulic project approval (HPA). Projects that will divert water for agricultural irrigation or stock watering purposes, or projects associated with streambank stabilization to protect farm and agricultural land, must also be in accordance with an HPA. The department issues HPAs.

As a condition of an HPA, the department may require the person or agency to take certain action to mitigate the impact the project may have on fish life. One such condition may be the placement of woody debris in the water to benefit reproducing fish stocks. The rules governing the hydraulic project approval process define large woody material— as trees or tree parts larger than four inches in diameter and longer than six feet and

rootwads wholly or partially waterward of the ordinary high water line.

Whenever placement of woody debris is required as a condition of an HPA, the department, upon request, shall invite comment from the local governmental authority, affected tribes, affected federal and state agencies, and the project applicant.

Current forest practice statutes and department regulations sometimes require forest landowners to leave trees standing along land that is on or adjacent to waterways to benefit salmon and other fish and wildlife. The landowner, the department, and the state are not liable for damages or injury resulting from these trees being blown down or falling. The immunity provided includes immunity from damages or injury to public improvements, private property, and persons, and damages or injuries resulting from wildfire, erosion, and flooding.

Summary of Bill:

The Legislature finds that the placement of large woody debris into rivers and streams serves an important function in salmon recovery because such debris create pools for salmon to rest and feed, and provide salmon protection from predators.

Any landowner, or any project sponsor or volunteer working from a habitat project list, who is involved in the design or placement of large woody debris into a watercourse to enhance salmon or other fish recovery shall not be liable for injury or damages resulting from ordinary negligence associated with these actions if the placement of the large woody debris is in accordance with the terms of a hydraulic permit and is consistent with generally accepted design guidelines.

The immunity applies, but is not limited to, personal injury, property damage, flooding, erosion, damage to public improvements, and other injuries or damages resulting from the placement of large woody debris.

Watercourse– has the same meaning as it exists as of January 1, 2001, under the rules governing the hydraulic project approval process. Large woody debris means trees or tree parts larger than four inches in diameter and longer than six feet and rootwads wholly or partially waterward of the ordinary high water line.

Those who own property within one mile downstream of where the large woody debris is to be installed are included in the category of people and entities who may comment on the placement of the large woody debris.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.