

Judiciary

HB 1305

Title: *An act relating to liability for damage to property.*

Brief Description: *Extending liability for damage to land held or acquired under RCW 64.04.130.*

Sponsors: *Representatives Buck, Rockefeller, Eickmeyer, Jackley, Doumit, Sump, Pearson and Haigh; by request of Department of Fish and Wildlife.*

Brief Summary of Bill

- *Makes the civil action for treble damages for cutting or removing vegetation on another person's property applicable to a real property right or interest that has been conveyed for the purposes of conservation.*

Hearing Date: *2/6/01*

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

Background:

Generally, the owner of real property has a right to use the property as he or she chooses. Sometimes the property may be subject to certain encumbrances, such as easements, covenants, or other restrictions. Such encumbrances may be created in a variety of ways, including by agreement between the owner of the property and the party wanting the encumbrance.

An easement is a right of use over the property of another and can be created by agreement. A covenant is an agreement between two parties about what can or cannot be done to or on the property.

State and federal agencies, counties, cities, towns, and other metropolitan municipal corporations, nonprofit historic preservation corporations, and nonprofit nature conservancy corporations may hold or acquire a development right, easement, covenant, restriction, or other right or interest (less than an absolute ownership) in land to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space

purposes, any land or improvement on the land. The right or interest is classified as real property.

State agencies, nonprofit nature conservancies, and other entities often acquire conservation easements– for the purposes of conserving or protecting certain areas of property owned by another. The easements are generally created by agreement between the property owner and the agency or entity. The land, including the portion with the easement, is still owned by the landowner.

Current law provides that a person who goes onto the land of another and removes timber, crops, minerals, or other similar valuable property from the land, or wrongfully causes waste or injury to the land, or wrongfully injures personal property or improvements to real estate on the land, is liable to the injured party for treble damages caused by the removal, waste, or injury. The person may also be liable for the other party's costs and attorney fees.

Summary of Bill:

The statute allowing for treble damages when a person goes onto the land of another and removes timber, crops, minerals, or other valuable property, or wrongfully causes waste or injury applies to the rights and interests acquired by agencies or other entities for conservation purposes. The term goes onto the land of another– includes interference with rights or interests by the owner of the encumbered land.

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

Appropriation: *None.*

Fiscal Note: *Not Requested.*