
HOUSE BILL 2642

State of Washington 59th Legislature 2006 Regular Session

By Representatives Clements, Sump, Hinkle and Dunn

Read first time 01/11/2006. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to managing the health of the state's forests;
2 amending RCW 76.06.020, 76.06.040, 76.06.030, 76.06.050, 76.06.060, and
3 76.06.070; adding new sections to chapter 76.06 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the paramount
7 duty of the state is to provide for the education and well-being of its
8 children. Washington has been blessed with an ample forest land base
9 that, because of the wisdom of its founders, is held in trust by the
10 state to provide a sustainable economic mechanism for education
11 funding. However, the great forests of the state cannot provide for
12 the next generation on its own. To maximize the potential benefit to
13 the educational system, the forests of the state must be actively
14 managed and maintained, using modern silvicultural techniques and sound
15 forest stewardship. When land managers fail at this mission, or have
16 their efforts hamstrung by third party litigation roadblocks, the group
17 that bears the cost is the state's children. Therefore, the
18 legislature further finds that the state should make deeper investments
19 in the health of its forests, provide local mechanisms to aid the state

1 in its management duties, and require third parties that influence
2 forest health management to reimburse the state's children for the
3 costs inflicted upon the children.

4 **Sec. 2.** RCW 76.06.020 and 2003 c 314 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Agent" means the recognized legal representative,
9 representatives, agent, or agents for any owner.

10 (2) "Department" means the department of natural resources.

11 (3) "Owner" means and includes persons or their agents.

12 (4) "Timber land" means any land on which there is a sufficient
13 number of trees, standing or down, to constitute, in the judgment of
14 either the department or a county executive authority when appropriate,
15 a forest insect or forest disease breeding ground of a nature to
16 constitute a menace, injurious and dangerous to permanent forest growth
17 in the district under consideration.

18 (5) "Commissioner" means the commissioner of public lands.

19 (6) "Exotic" means not native to forest lands in Washington state.

20 (7) "Forest land" means any land on which there are sufficient
21 numbers and distribution of trees and associated species to, in the
22 judgment of the department, contribute to the spread of forest insect
23 or forest disease outbreaks that could be injurious to forest health.

24 (8) "Forest health" means the condition of a forest being sound in
25 ecological function, sustainable, resilient, and resistant to insects,
26 diseases, fire, and other disturbance, and having the capacity to meet
27 landowner objectives.

28 (9) "Forest health emergency" means the introduction of, or an
29 outbreak of, an exotic forest insect or disease that poses an imminent
30 danger of damage to the environment by threatening the survivability of
31 native tree species.

32 (10) "Forest insect or disease" means a living stage of an insect,
33 other invertebrate animal, or disease-causing organism or agent that
34 can directly or indirectly injure or cause disease or damage in trees,
35 or parts of trees, or in processed or manufactured wood, or other
36 products of trees.

1 (11) "Integrated pest management" means a strategy that uses
2 various combinations of pest control methods, including biological,
3 cultural, and chemical methods, in a compatible manner to achieve
4 satisfactory control and ensure favorable economic and environmental
5 consequences.

6 (12) "Native" means having populated Washington's forested lands
7 prior to European settlement.

8 (13) "Outbreak" means a rapidly expanding population of insects or
9 diseases with potential to spread.

10 (14) "Person" means any individual, partnership, private, public,
11 or municipal corporation, county, federal, state, or local governmental
12 agency, tribes, or association of individuals of whatever nature.

13 **Sec. 3.** RCW 76.06.040 and 1951 c 233 s 4 are each amended to read
14 as follows:

15 Every owner of timber lands, including timber lands owned by the
16 state and managed by the department, or ((his)) the owner's agent,
17 shall make every reasonable effort to control, destroy, and eradicate
18 such forest insect pests and forest tree diseases which threaten the
19 existence of any stand of timber or provide for the same to be done on
20 timber lands owned by him or her or under his or her control. In the
21 event ((he)) the owner fails, neglects, or is unable to accomplish such
22 control, the action may be performed as provided for in this chapter.

23 **Sec. 4.** RCW 76.06.030 and 1988 c 128 s 16 are each amended to read
24 as follows:

25 Except as otherwise provided, this chapter shall be administered by
26 the department.

27 **Sec. 5.** RCW 76.06.050 and 1988 c 128 s 17 are each amended to read
28 as follows:

29 (1)(a) Whenever the department finds timber lands, that are managed
30 by a person or entity other than the department, threatened by
31 infestations of forest insects or forest tree diseases, and if it finds
32 that such infestation is of such character as to threaten destruction
33 of timber stands, the department shall declare and certify an
34 infestation control district and fix and declare the boundaries

1 ((thereof)) of the control district, so as to definitely describe such
2 district. ((Said)) The district may include timber lands threatened by
3 the infestation as well as those timber lands already infested.

4 ((Thereafter)) (b) The department shall at once serve written
5 notice to all owners of timber lands or their agents within the
6 ((said)) district to proceed under the provisions of this chapter
7 without delay to control, destroy, and eradicate the ((said)) forest
8 insect pests or forest tree diseases as provided herein. The ((said))
9 notice may be made by personal service, or by mail addressed to the
10 last known place or address of ((such)) the owner or agent. ((Said))
11 The notice shall list and describe the method or methods of action that
12 will be acceptable to the department if the owner or agent elects to
13 control, destroy, and eradicate ((said)) the insects or diseases on his
14 or her own property.

15 ((Said)) (c) The notice when published for five consecutive days in
16 at least one daily newspaper or in two consecutive issues of a weekly
17 newspaper, either paper having a general circulation in ((said)) the
18 district will serve as the written notice to owners of noncommercial
19 timber lands.

20 (2)(a) When the threatened timber lands occur on property managed
21 by the department, the authority to declare an infestation control
22 district transfers to the lead executive authority of the county in
23 which the land is located. If the infestation control area is located
24 in more than one county, then the lead executive authority of all
25 involved counties must act in concert.

26 (b) Once an infestation control district has been identified by a
27 county executive authority, notice must be immediately provided to the
28 commissioner along with a directive to proceed under the provisions of
29 this chapter without delay to control, destroy, and eradicate the
30 forest insect pests or forest tree diseases identified by the county.
31 Control efforts may include the removal of dead trees, standing or not,
32 that can serve as incubators for future forest health issues.

33 **Sec. 6.** RCW 76.06.060 and 1988 c 128 s 18 are each amended to read
34 as follows:

35 (1) If the owner or agent ((se)) notified ((shall fail, refuse,
36 neglect)) by the department under RCW 76.06.050 fails, refuses, or
37 neglects or is unable to comply with the requirements of ((said)) the

1 notice, within a period of thirty days after the date (~~thereof~~) of
2 the notice, it shall be the duty of the department or its agents, using
3 such funds as have been, or hereafter may be, made available to proceed
4 with the control, eradication, and destruction of such forest pests or
5 forest tree diseases with or without the cooperation of the owner
6 involved in a manner approved by the department.

7 (2) In instances where a county executive authority notified the
8 department of the creation of an infestation control district on
9 department-managed land, it is the duty of the department to comply
10 with the requirements of the notice within thirty days of receipt. If
11 the department fails, refuses, or neglects to comply with the
12 requirements of the notice, the county executive authority may proceed
13 with the control, eradication, and destruction of forest pests or
14 forest tree diseases with or without the cooperation of the department.

15 **Sec. 7.** RCW 76.06.070 and 1988 c 128 s 19 are each amended to read
16 as follows:

17 (1) Upon the completion of the work directed, authorized, and
18 performed under the provisions of (~~this chapter~~) RCW 76.06.060 by the
19 department on lands not managed by the department, the department shall
20 prepare a verified statement of the expenses necessarily incurred in
21 performing the work of controlling, eradicating, and destroying
22 (~~said~~) forest insects or forest tree diseases. The balance of such
23 expenses after deducting such amounts as may be contributed to the
24 control costs by the state, by the federal government, or by any other
25 agencies, companies, corporations, or individuals, shall be a lien to
26 be prorated per acre upon the property, or properties involved(~~+~~
27 PROVIDED, That)). However, the amount of (~~said~~) the lien shall not
28 exceed twenty-five percent of the total costs incurred on such owner's
29 lands including necessary buffer strips. (~~Said~~) The lien shall be
30 reported by the department to the county assessor of the county in
31 which (~~said~~) the lands are situated, and shall be levied and
32 collected with the next taxes on such lands in the same manner and with
33 the same interest, penalty, and cost charges as apply to ad valorem
34 property taxes in this state(~~+~~ ~~PROVIDED FURTHER, Such~~)). Further,
35 the report and levy shall be made only on commercial timber lands. The
36 assessor shall extend the amounts on the assessment roll in a separate
37 column, and the procedure provided by law for the collection of taxes

1 and delinquent taxes shall be applicable thereto, and, upon the
2 collection thereof, the county treasurer shall repay the same to the
3 department to be applied to the expenses incurred in carrying out the
4 provisions of this chapter.

5 (2) Upon the completion of the work directed, authorized, and
6 performed under the provisions of RCW 76.06.060 by a county executive
7 authority on lands managed by the department, the county shall prepare
8 a verified statement of the expenses necessarily incurred in performing
9 the work of controlling, eradicating, and destroying the forest insects
10 or forest tree diseases on department-managed land. The department
11 shall fully reimburse the county within thirty days for all costs
12 involved in the recovery effort from the resource management cost
13 account created in RCW 79.64.020.

14 NEW SECTION. Sec. 8. A new section is added to chapter 76.06 RCW
15 to read as follows:

16 In any eradication or control effort on department-managed land
17 executed by either the department or a county executive authority under
18 RCW 76.06.060, the party implementing the control effort must include
19 provisions to sell all salvageable timber. The proceeds of all sales,
20 regardless if conducted by the department or a county, must be
21 distributed in the same manner as other timber sales from the same
22 property.

23 NEW SECTION. Sec. 9. A new section is added to chapter 76.06 RCW
24 to read as follows:

25 (1) Any party that brings a judicial or administrative action
26 leading to a final judgment that results in the inability of the
27 department or a county to fulfill the duties of this chapter or execute
28 the authority of this chapter is required to reimburse the state for
29 the actual value of all revenue lost from the sale of otherwise
30 salvageable timber prohibited by the judicial or administrative order.

31 (2) Lost revenues recovered under this section must be distributed
32 in the same manner as provided for salvage timber sales in section 8 of
33 this act.

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