
SUBSTITUTE HOUSE BILL 1409

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives B. Sullivan, Orcutt, Kretz and Takko)

READ FIRST TIME 02/08/07.

1 AN ACT Relating to the transfer of jurisdiction over conversion-
2 related forest practices to local governments; amending RCW 76.09.240;
3 and adding a new section to chapter 36.70A RCW.

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

5 **Sec. 1.** RCW 76.09.240 and 2002 c 121 s 2 are each amended to read
6 as follows:

7 (1) ~~((By December 31, 2005, each county and each city shall adopt~~
8 ~~ordinances or promulgate regulations setting standards for those Class~~
9 ~~IV forest practices regulated by local government. The regulations~~
10 ~~shall: (a) Establish minimum standards for Class IV forest practices;~~
11 ~~(b) set forth necessary administrative provisions; and (c) establish~~
12 ~~procedures for the collection and administration of forest practices~~
13 ~~and recording fees as set forth in this chapter.~~

14 ~~(2) Class IV forest practices regulations shall be administered and~~
15 ~~enforced by the counties and cities that promulgate them.~~

16 ~~(3) The forest practices board shall continue to promulgate~~
17 ~~regulations and the department shall continue to administer and enforce~~
18 ~~the regulations promulgated by the board in each county and each city~~
19 ~~for all forest practices as provided in this chapter until such time~~

1 as, in the opinion of the department, the county or city has
2 promulgated forest practices regulations that meet the requirements as
3 set forth in this section and that meet or exceed the standards set
4 forth by the board in regulations in effect at the time the local
5 regulations are adopted. Regulations promulgated by the county or city
6 thereafter shall be reviewed in the usual manner set forth for county
7 or city rules or ordinances. Amendments to local ordinances must meet
8 or exceed the forest practices rules at the time the local ordinances
9 are amended.

10 (a) Department review of the initial regulations promulgated by a
11 county or city shall take place upon written request by the county or
12 city. The department, in consultation with the department of ecology,
13 may approve or disapprove the regulations in whole or in part.

14 (b) Until January 1, 2006, the department shall provide technical
15 assistance to all counties or cities that have adopted forest practices
16 regulations acceptable to the department and that have assumed
17 regulatory authority over all Class IV forest practices within their
18 jurisdiction.

19 (c) Decisions by the department approving or disapproving the
20 initial regulations promulgated by a county or city may be appealed to
21 the forest practices appeals board, which has exclusive jurisdiction to
22 review the department's approval or disapproval of regulations
23 promulgated by counties and cities.

24 (4)) On or before December 31, 2008:

25 (a) Counties planning under RCW 36.70A.040, and the cities and
26 towns within those counties, where more than a total of twenty-five
27 Class IV forest practices applications, as defined in RCW 76.09.050(1)
28 Class IV (a) through (d), have been filed with the department between
29 January 1, 2003, and December 31, 2005, shall adopt and enforce
30 ordinances or regulations as provided in subsection (2) of this section
31 for the following:

32 (i) Forest practices classified as Class I, II, III, and IV that
33 are within urban growth areas designated under RCW 36.70A.110, except
34 for forest practices on ownerships of contiguous forest land equal to
35 or greater than twenty acres where the forest landowner provides, to
36 the department and the county, a written statement of intent, signed by
37 the forest landowner, not to convert to a use other than growing

1 commercial timber for ten years. This statement must be accompanied by
2 either:

3 (A) A written forest management plan acceptable to the department;
4 or

5 (B) Documentation that the land is enrolled as forest land of long-
6 term commercial significance under the provisions of chapter 84.33 RCW;
7 and

8 (ii) Forest practices classified as Class IV, outside urban growth
9 areas designated under RCW 36.70A.110, involving either timber harvest
10 or road construction, or both on:

11 (A) Lands platted after January 1, 1960, as provided in chapter
12 58.17 RCW;

13 (B) Lands that have or are being converted to another use; or

14 (C) Lands which, under RCW 76.09.070, are not to be reforested
15 because of the likelihood of future conversion to urban development;

16 (b) Counties planning under RCW 36.70A.040, and the cities and
17 towns within those counties, not included in (a) of this subsection,
18 may adopt and enforce ordinances or regulations as provided in (a) of
19 this subsection; and

20 (c) Counties not planning under RCW 36.70A.040, and the cities and
21 towns within those counties, may adopt and enforce ordinances or
22 regulations as provided in subsection (2) of this section for forest
23 practices classified as Class IV involving either timber harvest or
24 road construction, or both on:

25 (i) Lands platted after January 1, 1960, as provided in chapter
26 58.17 RCW;

27 (ii) Lands that have or are being converted to another use; or

28 (iii) Lands which, under RCW 76.09.070, are not to be reforested
29 because of the likelihood of future conversion to urban development.

30 (2) Before a county, city, or town may regulate forest practices
31 under subsection (1) of this section, it shall ensure that its critical
32 areas and development regulations are in compliance with RCW 36.70A.130
33 and, if applicable, RCW 36.70A.215. The county, city, or town shall
34 notify the department and the department of ecology in writing sixty
35 days prior to adoption of the development regulations required in this
36 section. The transfer of jurisdiction shall not occur until the
37 county, city, or town has notified the department, the department of

1 revenue, and the department of ecology in writing of the effective date
2 of the regulations. Ordinances and regulations adopted under
3 subsection (1) of this section and this subsection shall include:

4 (a) Provisions that require appropriate approvals for all phases of
5 the conversion of forest lands, including land clearing and grading;
6 and

7 (b) Procedures for the collection and administration of permit and
8 recording fees.

9 (3) Activities regulated by counties, cities, or towns as provided
10 in subsections (1) and (2) of this section shall be administered and
11 enforced by those counties, cities, or towns. The department shall not
12 regulate these activities under this chapter.

13 (4) The board shall continue to adopt rules and the department
14 shall continue to administer and enforce those rules in each county,
15 city, or town for all forest practices as provided in this chapter
16 until such a time as the county, city, or town has updated its
17 development regulations as required by RCW 36.70A.130 and, if
18 applicable, RCW 36.70A.215, and has adopted ordinances or regulations
19 under subsections (1) and (2) of this section. However, counties,
20 cities, and towns that have adopted ordinances or regulations regarding
21 forest practices prior to the effective date of this section are not
22 required to readopt their ordinances or regulations in order to satisfy
23 the requirements of this section.

24 (5) Upon request, the department shall provide technical assistance
25 to all counties, cities, and towns while they are in the process of
26 adopting the regulations required by this section, and after the
27 regulations become effective.

28 (6) For those forest practices over which the board and the
29 department maintain regulatory authority no county, city, municipality,
30 or other local or regional governmental entity shall adopt or enforce
31 any law, ordinance, or regulation pertaining to forest practices,
32 except that to the extent otherwise permitted by law, such entities may
33 exercise any:

34 (a) Land use planning or zoning authority: PROVIDED, That exercise
35 of such authority may regulate forest practices only: (i) Where the
36 application submitted under RCW 76.09.060 as now or hereafter amended
37 indicates that the lands have been or will be converted to a use other
38 than commercial forest product production; or (ii) on lands which have

1 been platted after January 1, 1960, as provided in chapter 58.17 RCW:
2 PROVIDED, That no permit system solely for forest practices shall be
3 allowed; that any additional or more stringent regulations shall not be
4 inconsistent with the forest practices regulations enacted under this
5 chapter; and such local regulations shall not unreasonably prevent
6 timber harvesting;

7 (b) Taxing powers;

8 (c) Regulatory authority with respect to public health; and

9 (d) Authority granted by chapter 90.58 RCW, the "Shoreline
10 Management Act of 1971".

11 (7) To improve the administration of the forest excise tax created
12 in chapter 84.33 RCW, a county, city, or town that regulates forest
13 practices under this section shall report permit information to the
14 department of revenue for all approved forest practices permits. The
15 permit information shall be reported to the department of revenue no
16 later than sixty days after the date the permit was approved and shall
17 be in a form and manner agreed to by the county, city, or town and the
18 department of revenue. Permit information includes the landowner's
19 legal name, address, telephone number, and parcel number.

20 NEW SECTION. Sec. 2. A new section is added to chapter 36.70A RCW
21 to read as follows:

22 (1) Each county, city, and town assuming regulation of forest
23 practices as provided in RCW 76.09.240 (1) and (2) shall adopt
24 development regulations that:

25 (a) Protect public resources, as defined in RCW 76.09.020, from
26 material damage or the potential for material damage;

27 (b) Require appropriate approvals for all phases of the conversion
28 of forest lands, including clearing and grading; and

29 (c) Are guided by the planning goals in RCW 36.70A.020 and by the
30 purposes and policies of the forest practices act as set forth in RCW
31 76.09.010.

32 (2) If necessary, each county, city, or town that assumes
33 regulation of forest practices under RCW 76.09.240 shall amend its
34 comprehensive plan to ensure consistency between its comprehensive plan
35 and development regulations.

36 (3) Before a county, city, or town may regulate forest practices
37 under RCW 76.09.240 (1) and (2), it shall update its development

1 regulations as required by RCW 36.70A.130 and, if applicable, RCW
2 36.70A.215. Forest practices regulations adopted under RCW 76.09.240
3 (1) and (2) may be adopted as part of the legislative action taken
4 under RCW 36.70A.130 or 36.70A.215.

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