Agriculture & Natural Resources Committee

SB 5562

Brief Description: Concerning forestry operations.

Sponsors: Senators Morton, Hargrove, Jacobsen, Sheldon, Holmquist, Schoesler, Shin and Stevens.

Brief Summary of Bill

- Includes the act of owning land that has a growing crop of trees in the list of activities that qualify as reasonable forest practices that do not constitute a nuisance, provided that the land is capable of supporting a merchantable stand of timber and is not being used for a purpose that is incompatible with timber growing.

- Includes owning land where trees may passively grow until a customary forest practice activity is deemed timely by the owner to the definition of "forest practice," as used in the context of nuisance actions only.

Hearing Date: 3/17/09

Staff: Anna Jackson (786-7190)

Background:

Nuisance.
A nuisance is an activity that injures health, is indecent, offends the senses, or obstructs the free use of property so that it interferes with the comfortable enjoyment of life and property [RCW 7.48.010]. A person may bring a civil suit to recover damages for a nuisance.

Agricultural activities conducted on farmland and forest practices are generally presumed to be reasonable and not a nuisance unless the activity or practice has a substantial adverse effect on public health and safety [RCW 7.48.305]. In order to be considered reasonable and thus not a nuisance, the agricultural activities or forest practices must be consistent with good agricultural

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and forest practices and established prior to surrounding non-agricultural and non-forestry activities [RCW 7.48.305]. Agricultural activities and forest practices that comply with all applicable laws and rules are presumed to be good agricultural and forest practices [RCW 7.48.305].

Forest practices.
Forest practices are defined as any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber [RCW 76.09.020]. Such activities include road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control [RCW 76.09.020]. Forest practices do not include activities such as tree marking, surveying and road flagging, or the removal or harvesting of berries, ferns, greenery, herbs, mushrooms, and other products that cannot normally be expected to result in damage to forest soils, timber, or public resources [RCW 76.09.020].

Summary of Bill:

The act of owning land that has a growing crop of trees is added to the list of activities that qualify as reasonable forest practices that do not constitute a nuisance. This activity qualifies as a forest practice even if the tree growth is managed passively and the owner does not indicate the land's status as a working forest. The land in question must be capable of supporting a merchantable stand of timber and must not be actively used for another use that is incompatible with timber growing. If the activity of growing trees was established prior to surrounding non-forestry activities, then the act of tree growth is considered a necessary part of any other subsequent stages of forest practices necessary to bring a crop of trees from its planting to final harvest and is included as a reasonable forest practice.

Owning land where trees may passively grow until a customary forest practice activity is deemed timely by the owner is added to the definition of "forest practice," as used in the context of nuisance actions only.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.