

HOUSE BILL REPORT

SB 5562

As Passed House:

April 8, 2009

Title: An act relating to protecting the ability of forest landowners to continue active forestry operations.

Brief Description: Concerning forestry operations.

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

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/17/09, 3/26/09 [DP].

Floor Activity

Passed House: 4/8/09, 98-0.

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.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Blake, Chair; Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Liias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

Staff: Anna Jackson (786-7190)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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. 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. In order to be considered reasonable and thus not a nuisance, the agricultural activities or forest practices must be consistent with good agricultural and forest practices and established prior to surrounding non-agricultural and non-forestry activities. Agricultural activities and forest practices that comply with all applicable laws and rules are presumed to be good agricultural and forest practices.

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. Such activities include road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. Forest practices do not include activities such as tree marking, surveying and road flagging, nor 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.

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.

Staff Summary of Public Testimony:

(In support) This bill is important to support Washington's timber economy. Both the House and Senate bill versions unanimously passed the floor. Owners of forest land should not be penalized for letting trees passively grow until it is appropriate to harvest them. This bill will address this current oversight in the law by amending the definition of "forest practice."

(Opposed) None.

Persons Testifying: Senator Morton, prime sponsor; Debora Munguia, Washington Forest Protection Association; and Heath Packard, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.