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HOUSE BILL 1137

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Finn, Blake, Orcutt, Ormsby, McCune, Morrell,  
VanDeWege, Sullivan, and Herrera

Read first time 01/14/09. Referred to Committee on Agriculture &  
Natural Resources.

1            AN ACT Relating to protecting landowners' investments in Christmas  
2 trees; amending RCW 79.02.300, 79.02.310, 79.02.320, and 64.12.030; and  
3 repealing RCW 79.02.340 and 79.02.350.

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

5            **Sec. 1.** RCW 79.02.300 and 2004 c 199 s 207 are each amended to  
6 read as follows:

7            (1) Every person who, without authorization, uses or occupies  
8 public lands, removes any valuable material as defined in RCW 79.02.010  
9 from public lands, or causes waste or damage to public lands, or  
10 injures publicly owned personal property or publicly owned improvements  
11 to real property on public lands, is liable to the state for treble the  
12 amount of the damages. However, liability shall be for single damages  
13 if the department determines, or the person proves upon trial, that the  
14 person, at time of the unauthorized act or acts, did not know, or have  
15 reason to know, that he or she lacked authorization. Damages  
16 recoverable under this section include, but are not limited to, the  
17 market value of the use, occupancy, or things removed, had the use,  
18 occupancy, or removal been authorized; and any damages caused by injury  
19 to the land, publicly owned personal property or publicly owned

1 improvement, including the costs of restoration. In addition, the  
2 person is liable for reimbursing the state for its reasonable costs,  
3 including but not limited to, its administrative costs, survey costs to  
4 the extent they are not included in damages awarded for restoration  
5 costs, and its reasonable attorneys' fees and other legal costs.

6 (2) This section does not apply in any case where liability for  
7 damages is provided under RCW 64.12.030, 4.24.630, or 79.02.320(~~(, or~~  
8 ~~79.02.340)~~)).

9 (3) The department is authorized and directed to investigate all  
10 trespasses and wastes upon, and damages to, public lands of the state,  
11 and to cause prosecutions for, and/or actions for the recovery of the  
12 same to be commenced as is provided by law.

13 **Sec. 2.** RCW 79.02.310 and 2003 c 53 s 379 are each amended to read  
14 as follows:

15 Every person who willfully commits any trespass upon any public  
16 lands of the state and cuts down, destroys, or injures any timber, or  
17 any tree, including a Christmas tree as defined in RCW 76.48.020,  
18 standing or growing thereon, or takes, or removes, or causes to be  
19 taken, or removed, therefrom any wood or timber lying thereon, or  
20 maliciously injures or severs anything attached thereto, or the produce  
21 thereof, or digs, quarries, mines, takes or removes therefrom any  
22 earth, soil, stone, mineral, clay, sand, gravel, or any valuable  
23 materials, is guilty of theft under chapter 9A.56 RCW.

24 **Sec. 3.** RCW 79.02.320 and 1927 c 255 s 199 are each amended to  
25 read as follows:

26 Every person who shall cut or remove, or cause to be cut or  
27 removed, any timber growing or being upon any public lands of the  
28 state, including a Christmas tree as defined in RCW 76.48.020, or who  
29 shall manufacture the same into logs, bolts, shingles, lumber or other  
30 articles of use or commerce, unless expressly authorized so to do by a  
31 bill of sale from the state, or by a lease or contract from the state  
32 under which he holds possession of such lands, or by the provisions of  
33 law under and by virtue of which such bill of sale, lease or contract  
34 was issued, shall be liable to the state in treble the value of the  
35 timber or other articles so cut, removed or manufactured, to be

1 recovered in a civil action, and shall forfeit to the state all  
2 interest in and to any article into which said timber is manufactured.

3 **Sec. 4.** RCW 64.12.030 and Code 1881 s 602 are each amended to read  
4 as follows:

5 Whenever any person shall cut down, girdle, or otherwise injure, or  
6 carry off any tree, including a Christmas tree as defined in RCW  
7 76.48.020, timber, or shrub on the land of another person, or on the  
8 street or highway in front of any person's house, village, town or city  
9 lot, or cultivated grounds, or on the commons or public grounds of any  
10 village, town, or city, or on the street or highway in front thereof,  
11 without lawful authority, in an action by such person, village, town,  
12 or city against the person committing such trespasses or any of them,  
13 if judgment be given for the plaintiff, it shall be given for treble  
14 the amount of damages claimed or assessed therefor, as the case may be.

15 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
16 repealed:

17 (1) RCW 79.02.340 (Removal of Christmas trees--Compensation) and  
18 2004 c 199 s 208, 2003 c 334 s 504, 1988 c 128 s 66, 1955 c 225 s 1, &  
19 1937 c 87 s 1; and

20 (2) RCW 79.02.350 (Intent of RCW 79.02.340) and 2003 c 334 s 505 &  
21 1937 c 87 s 2.

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