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SENATE BILL 5562

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State of Washington

61st Legislature

2009 Regular Session

By Senators Morton, Hargrove, Jacobsen, Sheldon, Holmquist, Schoesler, Shin, and Stevens

Read first time 01/27/09. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to protecting the ability of forest landowners to  
2 continue active forestry operations; amending RCW 7.48.305 and  
3 7.48.310; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Commercial forestry produces jobs and  
6 revenue while also providing clean water and air, wildlife habitat,  
7 open space, and carbon storage. Maintaining a base of forest lands  
8 that can be utilized for commercial forestry is of utmost importance  
9 for the state.

10 As the population of the state increases, forest lands are  
11 converted to residential, suburban, and urban uses. The encroachment  
12 of these other uses into neighboring forest lands often makes it more  
13 difficult for forest landowners to continue practicing commercial  
14 forestry. It is the legislature's intent that a forest landowner's  
15 right to practice commercial forestry in a manner consistent with the  
16 state forest practices laws be protected and preserved.

17 **Sec. 2.** RCW 7.48.305 and 2007 c 331 s 2 are each amended to read  
18 as follows:

1       (1) Notwithstanding any other provision of this chapter,  
2 agricultural activities conducted on farmland and forest practices, if  
3 consistent with good agricultural and forest practices and established  
4 prior to surrounding nonagricultural and nonforestry activities, are  
5 presumed to be reasonable and shall not be found to constitute a  
6 nuisance unless the activity or practice has a substantial adverse  
7 effect on public health and safety.

8       (~~If those~~) (2) Agricultural activities and forest practices  
9 (~~are~~) undertaken in conformity with all applicable laws and rules( ~~or~~  
10 ~~they~~) are presumed to be good agricultural and forest practices not  
11 adversely affecting the public health and safety for purposes of this  
12 section and RCW 7.48.300. An agricultural activity that is in  
13 conformity with such laws and rules shall not be restricted as to the  
14 hours of the day or day or days of the week during which it may be  
15 conducted.

16       (3) The act of owning land upon which a growing crop of trees is  
17 located, even if the tree growth is being managed passively and even if  
18 the owner does not indicate the land's status as a working forest, is  
19 considered to be a forest practice occurring on the land if the crop of  
20 trees is located on land that is capable of supporting a merchantable  
21 stand of timber that is not being actively used for a use that is  
22 incompatible with timber growing. If the growing of trees has been  
23 established prior to surrounding nonforestry activities, then the act  
24 of tree growth is considered a necessary part of any other subsequent  
25 stages of forest practices necessary to bring a crop of trees from its  
26 planting to final harvest and is included in the provisions of this  
27 section.

28       (4) Nothing in this section shall affect or impair any right to sue  
29 for damages.

30       **Sec. 3.** RCW 7.48.310 and 2007 c 331 s 3 are each amended to read  
31 as follows:

32       (~~As used in~~) For the purposes of RCW 7.48.305 only:

33       (1) "Agricultural activity" means a condition or activity which  
34 occurs on a farm in connection with the commercial production of farm  
35 products and includes, but is not limited to, marketed produce at  
36 roadside stands or farm markets; noise; odors; dust; fumes; operation  
37 of machinery and irrigation pumps; movement, including, but not limited

1 to, use of current county road ditches, streams, rivers, canals, and  
2 drains, and use of water for agricultural activities; ground and aerial  
3 application of seed, fertilizers, conditioners, and plant protection  
4 products; keeping of bees for production of agricultural or apicultural  
5 products; employment and use of labor; roadway movement of equipment  
6 and livestock; protection from damage by wildlife; prevention of  
7 trespass; construction and maintenance of buildings, fences, roads,  
8 bridges, ponds, drains, waterways, and similar features and maintenance  
9 of streambanks and watercourses; and conversion from one agricultural  
10 activity to another, including a change in the type of plant-related  
11 farm product being produced. The term includes use of new practices  
12 and equipment consistent with technological development within the  
13 agricultural industry.

14 (2) "Farm" means the land, buildings, freshwater ponds, freshwater  
15 culturing and growing facilities, and machinery used in the commercial  
16 production of farm products.

17 (3) "Farmland" means land or freshwater ponds devoted primarily to  
18 the production, for commercial purposes, of livestock, freshwater  
19 aquacultural, or other farm products.

20 (4) "Farm product" means those plants and animals useful to humans  
21 and includes, but is not limited to, forages and sod crops, dairy and  
22 dairy products, poultry and poultry products, livestock, including  
23 breeding, grazing, and recreational equine use, fruits, vegetables,  
24 flowers, seeds, grasses, trees, freshwater fish and fish products,  
25 apiaries and apiary products, equine and other similar products, or any  
26 other product which incorporates the use of food, feed, fiber, or fur.

27 (5) "Forest practice" means (~~("forest practice" as defined in RCW~~  
28 ~~76.09.020))~~ any activity conducted on or directly pertaining to forest  
29 land, as that term is defined in RCW 76.09.020, and relating to  
30 growing, harvesting, or processing timber. The term "forest practices"  
31 includes, but is not limited to, road and trail construction, final and  
32 intermediate harvesting, precommercial thinning, reforestation,  
33 fertilization, prevention and suppression of diseases and insects,  
34 salvage of trees, brush control, and owning land where trees may  
35 passively grow until one of the preceding activities is deemed timely  
36 by the owner.

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