
SENATE BILL 6463

State of Washington

61st Legislature

2010 Regular Session

By Senators Honeyford, Holmquist, Hatfield, Morton, Hewitt, Stevens, Parlette, Delvin, Schoesler, Pflug, Becker, and Swecker

Read first time 01/14/10. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to property access during forest fires; amending
2 RCW 76.04.600, 76.04.016, and 47.48.040; adding a new section to
3 chapter 47.48 RCW; and repealing RCW 36.28A.140 and 47.48.060.

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

5 **Sec. 1.** RCW 76.04.600 and 1986 c 100 s 34 are each amended to read
6 as follows:

7 (1) Every owner of forest land in the state of Washington shall
8 furnish or provide, during the season of the year when there is danger
9 of forest fires, adequate protection against the spread of fire thereon
10 or therefrom which shall meet with the approval of the department.

11 (2)(a) Residents, landowners, and others in lawful possession and
12 control of land in the state have the right to access their residences,
13 forest land, and land not classified as forest land during a forest
14 fire or wildfire. Specifically, residents, landowners, and others in
15 lawful possession and control of land have the right to access their
16 residences and land in order to: (i) Conduct fire prevention or
17 suppression activities; (ii) protect or retrieve any property located
18 in their residences or on their land, including equipment, livestock,

1 or any other belongings; or (iii) undertake activities under both
2 (a)(i) and (ii) of this subsection.

3 (b) To the maximum extent practicable, the department shall allow
4 and facilitate access to residences and land as set forth in (a) of
5 this subsection.

6 **Sec. 2.** RCW 76.04.016 and 1993 c 196 s 1 are each amended to read
7 as follows:

8 (1) The department when acting, in good faith, in its statutory
9 capacity as a fire prevention and suppression agency, is carrying out
10 duties owed to the public in general and not to any individual person
11 or class of persons separate and apart from the public. Nothing
12 contained in this title, including but not limited to any provision
13 dealing with payment or collection of forest protection or fire
14 suppression assessments, may be construed to evidence a legislative
15 intent that the duty to prevent and suppress forest fires is owed to
16 any individual person or class of persons separate and apart from the
17 public in general. This section does not alter the department's duties
18 and responsibilities as a landowner.

19 (2) The department and its employees and agents are not liable for
20 any action, or failure to act, under RCW 76.04.600(2).

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.48 RCW
22 to read as follows:

23 (1) During the closure of any state highway, county road, or city
24 street under this chapter due to forest fire or wildfire, those state
25 agencies and local governments authorizing or implementing the closure
26 shall, to the maximum extent practicable, allow and facilitate access
27 to residences and land as set forth in RCW 76.04.600(2).

28 (2) State agencies, counties, and cities, and their employees and
29 agents, are not liable for any action, or failure to act, under
30 subsection (1) of this section.

31 (3) Residents, landowners, and other in lawful possession and
32 control of land in the state are not liable for unintentional injuries
33 or loss suffered by persons entering upon, or passing through, their
34 land pursuant to subsection (1) of this section.

1 **Sec. 4.** RCW 47.48.040 and 2007 c 252 s 3 are each amended to read
2 as follows:

3 Except as provided under ((~~RCW 47.48.060~~)) section 3 of this act,
4 when any state highway, county road, or city street or portion thereof
5 shall have been closed, or when the maximum speed limit thereon shall
6 have been reduced, for all vehicles or any class of vehicles, as by law
7 provided, any person, firm, or corporation disregarding such closing or
8 reduced speed limit shall be guilty of a misdemeanor, and shall in
9 addition to any penalty for violation of the provisions of this
10 section, be liable in any civil action instituted in the name of the
11 state of Washington or the county or city or town having jurisdiction
12 for any damages occasioned to such state highway, county road, or city
13 street, as the case may be, as the result of disregarding such closing
14 or reduced speed limit.

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

17 (1) RCW 36.28A.140 (Development of model policy to address property
18 access during forest fires and wildfires) and 2007 c 252 s 1; and

19 (2) RCW 47.48.060 (Registry of persons allowed access to property
20 to conduct fire prevention despite closures--Liability) and 2007 c 252
21 s 2.

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