
SENATE BILL 6837

State of Washington

61st Legislature

2010 Regular Session

By Senator Tom

Read first time 02/04/10. Referred to Committee on Ways & Means.

1 AN ACT Relating to forest fire protection and suppression; amending
2 RCW 76.04.005, 76.04.167, 76.04.610, 76.04.620, 76.04.660, and
3 79.13.030; adding a new section to chapter 76.04 RCW; and providing an
4 effective date.

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

6 **Sec. 1.** RCW 76.04.005 and 2007 c 480 s 12 are each amended to read
7 as follows:

8 ~~((As used in this chapter, the following terms have the meanings~~
9 ~~indicated))~~ The definitions in this section apply throughout this
10 chapter unless the context clearly requires otherwise.

11 (1) "Additional fire hazard" means a condition existing on any land
12 in the state:

13 (a) Covered wholly or in part by forest debris which is likely to
14 further the spread of fire and thereby endanger life or property;
15 ~~((or))~~

16 (b) When, due to the effects of disturbance agents, broken, down,
17 dead, or dying trees exist on forest land in sufficient quantity to be
18 likely to further the spread of fire within areas covered by a forest
19 health hazard warning or order issued by the commissioner of public

1 lands under RCW 76.06.180. The term "additional fire hazard" does not
2 include green trees or snags left standing in upland or riparian areas
3 under the provisions of RCW 76.04.465 or chapter 76.09 RCW; or

4 (c) When defensible space has not been maintained.

5 (2) "Closed season" means the period between April 15th and October
6 15th, unless the department designates different dates because of
7 prevailing fire weather conditions.

8 (3) "Department" means the department of natural resources, or its
9 authorized representatives, as defined in chapter 43.30 RCW.

10 (4) "Department protected lands" means all lands subject to the
11 forest protection assessment under RCW 76.04.610 or covered under
12 contract or agreement pursuant to RCW 76.04.135 by the department.

13 (5) "Disturbance agent" means those forces that damage or kill
14 significant numbers of forest trees, such as insects, diseases, wind
15 storms, ice storms, and fires.

16 (6) "Emergency fire costs" means those costs incurred or approved
17 by the department for emergency forest fire suppression, including the
18 employment of personnel, rental of equipment, and purchase of supplies
19 over and above costs regularly budgeted and provided for nonemergency
20 fire expenses for the biennium in which the costs occur.

21 (7) "Forest debris" includes forest slash, chips, and any other
22 vegetative residue resulting from activities on forest land.

23 (8) "Forest fire service" includes all wardens, rangers, and other
24 persons employed especially for preventing or fighting forest fires.

25 (9) "Forest land" means any unimproved lands which have enough
26 trees, standing or down, or flammable material, to constitute in the
27 judgment of the department, a fire menace to life or property.
28 Sagebrush and grass areas east of the summit of the Cascade mountains
29 may be considered forest lands when such areas are adjacent to or
30 intermingled with areas supporting tree growth. Forest land, for
31 protection purposes, does not include structures.

32 (10) "Forest landowner," "owner of forest land," "landowner," or
33 "owner" means the owner or the person in possession of any public or
34 private forest land.

35 (11) "Forest material" means forest slash, chips, timber, standing
36 or down, or other vegetation.

37 (12) "Landowner operation" means every activity, and supporting
38 activities, of a forest landowner and the landowner's agents,

1 employees, or independent contractors or permittees in the management
2 and use of forest land subject to the forest protection assessment
3 under RCW 76.04.610 for the primary benefit of the owner. The term
4 includes, but is not limited to, the growing and harvesting of forest
5 products, the development of transportation systems, the utilization of
6 minerals or other natural resources, and the clearing of land. The
7 term does not include recreational and/or residential activities not
8 associated with these enumerated activities.

9 (13) "Participating landowner" means an owner of forest land whose
10 land is subject to the forest protection assessment under RCW
11 76.04.610.

12 (14) "Slash" means organic forest debris such as tree tops, limbs,
13 brush, and other dead flammable material remaining on forest land as a
14 result of a landowner operation.

15 (15) "Slash burning" means the planned and controlled burning of
16 forest debris on forest lands by broadcast burning, underburning, pile
17 burning, or other means, for the purposes of silviculture, hazard
18 abatement, or reduction and prevention or elimination of a fire hazard.

19 (16) "Suppression" means all activities involved in the containment
20 and control of forest fires, including the patrolling thereof until
21 such fires are extinguished or considered by the department to pose no
22 further threat to life or property.

23 (17) "Unimproved lands" means those lands that will support grass,
24 brush and tree growth, or other flammable material when such lands are
25 not cleared or cultivated and, in the opinion of the department, are a
26 fire menace to life and property.

27 (18) "Defensible space" means the area around a residence that has
28 been landscaped to reduce fire danger.

29 **Sec. 2.** RCW 76.04.167 and 2001 c 279 s 1 are each amended to read
30 as follows:

31 (1) The legislature hereby finds and declares that:

32 (a) Forest wild fires are a threat to public health and safety and
33 can cause catastrophic damage to public and private resources,
34 including clean air, clean water, fish and wildlife habitat, timber
35 resources, forest soils, scenic beauty, recreational opportunities,
36 economic and employment opportunities, structures, and other
37 improvements;

1 (b) Forest landowners and the public have a shared interest in
2 protecting forests and forest resources by preventing and suppressing
3 forest wild fires; and

4 (c) (~~A recent independent analysis of the state fire program~~
5 ~~considered it imperative to restore a more equitable split between the~~
6 ~~general fund and forest protection assessments;~~

7 ~~(d) Without a substantial increase in forest protection funds, the~~
8 ~~state's citizens will be paying much more money for emergency fire~~
9 ~~suppression; and~~

10 (e)) It is therefore the intent of the legislature that the costs
11 of fire protection and suppression be equitably shared between the
12 forest protection assessment account and state contributions to ensure
13 that there will be sufficient firefighters who are equipped and trained
14 to respond quickly to fires in order to keep fires small and manage
15 those large fires that do occur. (~~In recognition of increases in~~
16 ~~landowner assessments, the legislature declares its intent that~~
17 ~~increases in the state's share for forest protection should be provided~~
18 ~~to stabilize the funding for the forest protection program, and that~~
19 ~~sufficient state funds should be committed to the forest protection~~
20 ~~program so that the recommendations contained in the 1997 tridata~~
21 ~~report can be implemented on an equitable basis.))~~

22 (2) The legislature hereby finds and declares that it is in the
23 public interest to establish and maintain a complete, cooperative, and
24 coordinated forest fire protection and suppression program for the
25 state; that, second only to saving lives, the primary mission of the
26 department is protecting forest resources and suppressing forest wild
27 fires; that a primary mission of rural fire districts and municipal
28 fire departments is protecting improved property and suppressing
29 structural fires; and that the most effective way to protect structures
30 is for the department to focus its efforts and resources on
31 aggressively suppressing forest wild fires.

32 (3) The legislature also acknowledges the natural role of fire in
33 forest ecosystems, and finds and declares it in the public interest to
34 use fire under controlled conditions to prevent wild fires by
35 maintaining healthy forests and eliminating sources of fuel.

36 **Sec. 3.** RCW 76.04.610 and 2007 c 110 s 1 are each amended to read
37 as follows:

1 (1)(a) If any owner of forest land within a forest protection zone
2 neglects or fails to provide adequate fire protection as required by
3 RCW 76.04.600, the department shall provide such protection and shall
4 annually impose the following assessments on each parcel of such land:
5 ~~(i) ((A flat fee assessment of seventeen dollars and fifty cents; and~~
6 ~~(ii) twenty seven cents on each acre exceeding fifty acres))~~ For
7 parcels within high risk counties as specified in subsection (3) of
8 this section:

9 (A) A flat fee assessment of sixty-eight dollars and fifty cents;
10 and

11 (B) An acreage assessment of one dollar and eight cents on each
12 acre exceeding fifty acres.

13 (ii) For parcels within medium risk counties as specified in
14 subsection (3) of this section:

15 (A) A flat fee assessment of thirty-four dollars and fifty cents;
16 and

17 (B) An acreage assessment of fifty-four cents on each acre
18 exceeding fifty acres.

19 (iii) For all parcels within low risk counties as specified in
20 subsection (3) of this section:

21 (A) A flat fee assessment of seventeen dollars and fifty cents; and

22 (B) An acreage fee of twenty-seven cents on each acre exceeding
23 fifty acres.

24 (b) Assessors may, at their option, collect the assessment on tax
25 exempt lands. If the assessor elects not to collect the assessment,
26 the department may bill the landowner directly.

27 (2) ~~((An owner who has paid assessments on two or more parcels,~~
28 ~~each containing fewer than fifty acres and each within the same county,~~
29 ~~may obtain the following refund:~~

30 ~~(a) If all the parcels together contain less than fifty acres, then~~
31 ~~the refund is equal to the flat fee assessments paid, reduced by the~~
32 ~~total of (i) seventeen dollars and (ii) the total of the amounts~~
33 ~~retained by the county from such assessments under subsection (5) of~~
34 ~~this section.~~

35 ~~(b) If all the parcels together contain fifty or more acres, then~~
36 ~~the refund is equal to the flat fee assessments paid, reduced by the~~
37 ~~total of (i) seventeen dollars, (ii) twenty seven cents for each acre~~

1 ~~exceeding fifty acres, and (iii) the total of the amounts retained by~~
2 ~~the county from such assessments under subsection (5) of this section.~~

3 ~~Applications for refunds shall be submitted to the department on a~~
4 ~~form prescribed by the department and in the same year in which the~~
5 ~~assessments were paid. The department may not provide refunds to~~
6 ~~applicants who do not provide verification that all assessments and~~
7 ~~property taxes on the property have been paid. Applications may be~~
8 ~~made by mail.~~

9 ~~In addition to the procedures under this subsection,~~) (a) Property
10 owners with multiple parcels in a single county (~~who qualify for a~~
11 ~~refund under this section~~) may apply to the department on an
12 application listing all the parcels owned in order to have the
13 assessment computed on all parcels but billed to a single parcel.
14 (~~Property owners with the following number of parcels may apply to the~~
15 ~~department in the year indicated:~~

Year	Number of Parcels
2002	10 or more parcels
2003	8 or more parcels
2004 and thereafter	6 or more parcels

20 (b) The department must compute the correct assessment and allocate
21 one parcel in the county to use to collect the assessment. The county
22 must then bill the forest fire protection assessment on that one
23 allocated identified parcel. The landowner is responsible for
24 notifying the department of any changes in parcel ownership.

25 (~~(3) Beginning January 1, 1991,~~) (c) Under the administration and
26 at the discretion of the department up to two hundred thousand dollars
27 per year of this assessment shall be used in support of those rural
28 fire districts assisting the department in fire protection services on
29 forest lands.

30 (~~(4)~~) (3)(a) For the purpose of this chapter, the department may
31 divide the forest lands of the state, or any part thereof, into
32 districts, for fire protection and assessment purposes, may classify
33 lands according to the character of timber prevailing, and the fire
34 hazard existing, and place unprotected lands under the administration
35 of the proper district. Beginning December 1, 2010, and every five
36 years thereafter, the department shall review the emergency fire
37 suppression expenditures of the department for fires classified, by
38 rule of the department, type one through three over the previous five

1 years, less expenditures from the landowners contingency forest fire
2 suppression account and reimbursements for suppression activities on
3 federal land, and categorize the counties as either high risk, medium
4 risk, or low risk. The department shall provide this information to
5 the counties and the counties shall modify the assessments as necessary
6 to satisfy the requirements in subsection (1) of this section.

7 (b) To establish risk, the department shall determine, in
8 descending order, the per acre cost of fire suppression within each
9 county and designate risk as follows:

10 (i) High risk are those counties that encompass, in descending
11 order, at least sixty percent of the per acre suppression costs;

12 (ii) Medium risk are those counties that encompass, in descending
13 order, at least twenty percent of the per acre suppression costs; and

14 (iii) Low risk are those counties not specified in (a) and (b) of
15 this subsection.

16 (c) For fires that occur in more than one county, the department
17 shall apportion the costs among the affected counties according to the
18 percentage of land affected.

19 (d) Amounts paid or contracted to be paid by the department for
20 protection of forest lands from funds at its disposal shall be a lien
21 upon the property protected, unless reimbursed by the owner within ten
22 days after October 1st of the year in which they were incurred. The
23 department shall be prepared to make statement thereof, upon request,
24 to a forest owner whose own protection has not been previously approved
25 as to its adequacy, the department shall report the same to the
26 assessor of the county in which the property is situated. The assessor
27 shall extend the amounts upon the tax rolls covering the property, and
28 upon authorization from the department shall levy the forest protection
29 assessment against the amounts of unimproved land as shown in each
30 ownership on the county assessor's records. The assessor may then
31 segregate on the records to provide that the improved land and
32 improvements thereon carry the millage levy designed to support the
33 rural fire protection districts as provided for in RCW 52.16.170.

34 ((+5)) (4) The amounts assessed shall be collected at the time, in
35 the same manner, by the same procedure, and with the same penalties
36 attached that general state and county taxes on the same property are
37 collected, except that errors in assessments may be corrected at any
38 time by the department certifying them to the treasurer of the county

1 in which the land involved is situated. Assessments shall be known and
2 designated as assessments of the year in which the amounts became
3 reimbursable. Upon the collection of assessments the county treasurer
4 shall place fifty cents of the total assessments paid on a parcel for
5 fire protection into the county current expense fund to defray the
6 costs of listing, billing, and collecting these assessments. The
7 treasurer shall then transmit the balance to the department.
8 Collections shall be applied against expenses incurred in carrying out
9 the provisions of this section, including necessary and reasonable
10 administrative costs incurred by the department in the enforcement of
11 these provisions. The department may also expend sums collected from
12 owners of forest lands or received from any other source for necessary
13 administrative costs in connection with the enforcement of RCW
14 76.04.660.

15 ~~((+6))~~ (5) When land against which forest protection assessments
16 are outstanding is acquired for delinquent taxes and sold at public
17 auction, the state shall have a prior lien on the proceeds of sale over
18 and above the amount necessary to satisfy the county's delinquent tax
19 judgment. The county treasurer, in case the proceeds of sale exceed
20 the amount of the delinquent tax judgment, shall immediately remit to
21 the department the amount of the outstanding forest protection
22 assessments.

23 ~~((+7))~~ (6) All nonfederal public bodies owning or administering
24 forest land included in a forest protection zone shall pay the forest
25 protection assessments provided in this section and the special forest
26 fire suppression account assessments under RCW 76.04.630. The forest
27 protection assessments and special forest fire suppression account
28 assessments shall be payable by nonfederal public bodies from available
29 funds within thirty days following receipt of the written notice from
30 the department which is given after October 1st of the year in which
31 the protection was provided. Unpaid assessments are not a lien against
32 the nonfederal publicly owned land but shall constitute a debt by the
33 nonfederal public body to the department and are subject to interest
34 charges at the legal rate.

35 ~~((+8))~~ (7) A public body, having failed to previously pay the
36 forest protection assessments required of it by this section, which
37 fails to suppress a fire on or originating from forest lands owned or

1 administered by it, is liable for the costs of suppression incurred by
2 the department or its agent and is not entitled to reimbursement of
3 costs incurred by the public body in the suppression activities.

4 ~~((+9))~~ (8) The department may adopt rules to implement this
5 section, including, but not limited to, rules on levying and collecting
6 forest protection assessments.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.04 RCW
8 to read as follows:

9 There is imposed a fee of twenty dollars on each building permit
10 issued by a county or city for structures that will be erected within
11 the forest protection zones as specified in RCW 76.04.610. Quarterly,
12 each county and city shall remit moneys collected under this section to
13 the state treasury for deposit into the forest protection assessment
14 account.

15 **Sec. 5.** RCW 76.04.620 and 1986 c 100 s 36 are each amended to read
16 as follows:

17 ~~((Biennial general fund appropriations to the department of natural
18 resources normally provide funds for the purpose of paying the
19 emergency fire costs and expenses incurred and/or approved by the
20 department in forest fire suppression or in reacting to any potential
21 forest fire situation.))~~ When a determination is made that the fire
22 started in the course of or as a result of a landowner operation,
23 moneys expended from such appropriations in the suppression of the fire
24 shall be recovered from the landowner contingency forest fire
25 suppression account. The department shall transmit to the state
26 treasurer for deposit in the general fund any such moneys which are
27 later recovered. Moneys recovered during the biennium in which they
28 are expended may be spent for purposes set forth in this section during
29 the same biennium, without reappropriation. Loans between the general
30 fund and the landowner contingency forest fire suppression account are
31 authorized for emergency fire suppression. The loans shall not exceed
32 the amount appropriated for emergency forest fire suppression costs and
33 shall bear interest at the then current rate of interest as determined
34 by the state treasurer.

1 **Sec. 6.** RCW 76.04.660 and 2007 c 480 s 13 are each amended to read
2 as follows:

3 (1) The owner of land on which there is an additional fire hazard,
4 when the hazard is the result of a landowner operation, including not
5 maintaining adequate defensible space, or the land is within an area
6 covered by a forest health hazard warning issued under RCW 76.06.180,
7 shall take reasonable measures to reduce the danger of fire spreading
8 from the area and may abate the hazard by burning or other satisfactory
9 means.

10 (2) An extreme fire hazard shall exist within areas covered by a
11 forest health hazard order issued by the commissioner of public lands
12 under RCW 76.06.180 in which there is an additional fire hazard caused
13 by disturbance agents and the landowner has failed to take such action
14 as required by the forest health hazard order. The duties and
15 liability of such landowner under this chapter are as described in
16 subsections (~~((5), (6), and))~~ (7), (8), and (9) of this section.

17 (3) The department shall adopt rules defining areas of extreme fire
18 hazard that the owner and person responsible shall abate. The areas
19 shall include but are not limited to high risk areas such as where life
20 or buildings may be endangered, areas adjacent to public highways, and
21 areas of frequent public use.

22 (4) The department shall adopt rules defining areas of defensible
23 space that the owner and person responsible shall maintain.

24 (5) The department shall adopt rules defining the different
25 classification of fires ranging from type one through type five.

26 (6) The department may adopt rules, after consultation with the
27 forest fire advisory board, defining other conditions of extreme fire
28 hazard with a high potential for fire spreading to lands in other
29 ownerships. The department may prescribe additional measures that
30 shall be taken by the owner and person responsible to isolate or reduce
31 the extreme fire hazard.

32 (~~((5))~~) (7) The owner or person responsible for the existence of
33 the extreme fire hazard is required to abate, isolate, or reduce the
34 hazard. The duty to abate, isolate, or reduce, and liability under
35 this chapter, arise upon creation of the extreme fire hazard.
36 Liability shall include but not be limited to all fire suppression
37 expenses incurred by the department, regardless of fire cause.

1 (~~(6)~~) (8) If the owner or person responsible for the existence of
2 the additional fire hazard, extreme fire hazard, or forest debris
3 subject to RCW 76.04.650 refuses, neglects, or unsuccessfully attempts
4 to abate, isolate, or reduce the same, the department may summarily
5 abate, isolate, or reduce the hazard as required by this chapter and
6 recover twice the actual cost thereof from the owner or person
7 responsible. Landowner contingency forest fire suppression account
8 moneys may be used by the department, when available, for this purpose.
9 Moneys recovered by the department pursuant to this section shall be
10 returned to the landowner contingency forest fire suppression account.

11 (~~(7)~~) (9) Such costs shall include all salaries and expenses of
12 people and equipment incurred therein, including those of the
13 department. All such costs shall also be a lien upon the land
14 enforceable in the same manner with the same effect as a mechanic's
15 lien.

16 (~~(8)~~) (10) The summary action may be taken only after ten days'
17 notice in writing has been given to the owner or reputed owner of the
18 land on which the extreme fire hazard or forest debris subject to RCW
19 76.04.650 exists. The notice shall include a suggested method of
20 abatement and estimated cost thereof. The notice shall be by personal
21 service or by registered or certified mail addressed to the owner or
22 reputed owner at the owner's last known place of residence.

23 (~~(9)~~) (11) A landowner or manager may make a written request to
24 the department to inspect their property and provide a written notice
25 that they have complied with a forest health hazard warning or forest
26 health hazard order, or otherwise adequately abated, isolated, or
27 reduced an additional or extreme fire hazard. An additional or extreme
28 fire hazard shall be considered to continue to exist unless and until
29 the department, in its sole discretion, issues such notice.

30 **Sec. 7.** RCW 79.13.030 and 2003 c 334 s 367 are each amended to
31 read as follows:

- 32 (1) Every lease issued by the department must contain:
33 (~~(1)~~) (a) The specific use or uses to which the land is to be
34 employed;
35 (~~(2)~~) (b) The improvements required, if any;
36 (~~(3)~~) (c) Provisions providing that the rent is payable in

1 advance in quarterly, semiannual, or annual payments as determined by
2 the department, or as agreed upon by the lessee and the department;

3 ~~((+4))~~ (d) Other terms and conditions as the department deems
4 advisable, subject to review by the board, to achieve the purposes of
5 the state Constitution and this chapter.

6 (2) Beginning July 1, 2010, all lessees of land under this section
7 are subject to an annual emergency fire suppression assessment equal to
8 five percent of the annual lease amount. Funds collected for this
9 purpose shall be deposited into the forest protection assessment
10 account as specified in RCW 76.04.610.

11 NEW SECTION. **Sec. 8.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 9.** This act takes effect July 1, 2010.

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