
SUBSTITUTE SENATE BILL 5972

State of Washington

63rd Legislature

2014 Regular Session

By Senate Natural Resources & Parks (originally sponsored by Senators Pearson, Rolfes, Hargrove, Mullet, Sheldon, Hewitt, Cleveland, Honeyford, Fain, Hill, Braun, Fraser, Litzow, Parlette, Frockt, and Kline; by request of Commissioner of Public Lands)

READ FIRST TIME 01/22/14.

1 AN ACT Relating to specifying recovery for fire damages to public
2 or private forested lands; amending RCW 4.24.040 and 4.24.060; adding
3 a new section to chapter 76.04 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04 RCW
6 to read as follows:

7 (1) The owner of public or private forested lands may bring a civil
8 action in superior court for property damage to public or private
9 forested lands, including real and personal property on those lands,
10 when the damage results from a fire that started on or spread from
11 public or private forested lands.

12 (2) Liability under this section attaches to the extent that
13 evidence demonstrates that:

14 (a) An action or inaction by a person relating to the start or
15 spread of the fire constituted negligence or a higher degree of fault;
16 and

17 (b) The action or inaction under (a) of this subsection was a
18 proximate cause of the property damage.

19 (3) Recoverable damages under this section are limited to:

1 (a) Either the difference in the fair market value of the damaged
2 property immediately before and after the fire or the reasonable cost
3 of restoring the damaged property to the general condition it was in
4 immediately before the fire. However, recovery for the cost of
5 restoration may not exceed the difference in the fair market value of
6 the damaged property immediately before and after the fire;

7 (b) The reasonable expenses incurred to suppress or extinguish the
8 fire unless otherwise provided for in this chapter; and

9 (c) Any other objectively verifiable monetary loss, including but
10 not limited to out-of-pocket expenses, loss of earnings, loss of use of
11 property, and loss of business or employment opportunities, provided
12 such a loss is not duplicative of the recovery specified under (a) or
13 (b) of this subsection.

14 (4) This section provides the exclusive cause of action for
15 property damage to public or private forested lands, including real and
16 personal property on those lands, resulting from a fire that started on
17 or spread from public or private forested lands. This section does not
18 apply to or preclude a cause of action under RCW 4.24.630 against a
19 person who goes onto the land of another without authorization and
20 wrongfully, intentionally, and unreasonably causes a fire resulting in
21 property damage.

22 (5) The definitions in this subsection apply throughout this
23 section unless the context clearly requires otherwise.

24 (a) "Fair market value" means the amount that a willing buyer would
25 pay to a willing seller for property in an arms-length transaction if
26 both parties were fully informed about all advantages and disadvantages
27 of the property and neither party is acting under a compulsion to sell,
28 as determined by: (i) For real estate, a state-certified general real
29 estate appraiser as defined under RCW 18.140.010; and (ii) for personal
30 property, an appraiser qualified to appraise the property based on
31 training and experience.

32 (b) "Forest tree species" means a tree species that is capable of
33 producing logs, fiber, or other wood materials that are suitable for
34 the production of lumber, sheeting, pulp, firewood, or other forest
35 products.

36 (c) "Owner of public or private forested lands" means any person in
37 actual control of public or private forested lands, whether the control

1 is based either on legal or equitable title, or on any other interest
2 entitling the holder to sell or otherwise dispose of any or all of the
3 timber on the land in any manner.

4 (d) "Person" includes: An individual; a corporation; a public or
5 private entity or organization; a local, state, or federal government
6 or governmental entity; any business organization, including
7 corporations and partnerships; or a group of two or more individuals
8 acting with a common purpose.

9 (e) "Public or private forested lands" means any lands used or
10 biologically capable of being used for growing forest tree species
11 regardless of the existing use of the land except when the predominant
12 physical use of the land at the time of the fire is not consistent with
13 the growing, conservation, or preservation of forest tree species.
14 Examples of inconsistent uses include, but are not limited to,
15 buildings, road, railroad and utility rights-of-way, airports, parking
16 lots, mining, solid waste disposal, cropfields, orchards, vineyards,
17 pastures, feedlots, communication sites, and home sites that may
18 include up to ten acres.

19 **Sec. 2.** RCW 4.24.040 and 2009 c 549 s 1001 are each amended to
20 read as follows:

21 Except as provided in section 1 of this act, if any person shall
22 for any lawful purpose kindle a fire upon his or her own land, he or
23 she shall do it at such time and in such manner, and shall take such
24 care of it to prevent it from spreading and doing damage to other
25 persons' property, as a prudent and careful person would do, and if he
26 or she fails so to do he or she shall be liable in an action on the
27 case to any person suffering damage thereby to the full amount of such
28 damage.

29 **Sec. 3.** RCW 4.24.060 and 2011 c 336 s 93 are each amended to read
30 as follows:

31 The common law right to an action for damages done by fires, is not
32 taken away or diminished by RCW 4.24.040, 4.24.050, and 4.24.060(~~(, but~~
33 ~~it may be pursued; but)~~). However:

34 (1) Any person availing himself or herself of the provisions of RCW
35 4.24.040, shall be barred of his or her action at common law for the
36 damage so sued for(~~(, and)~~);

1 (2) No action shall be brought at common law for kindling fires in
2 the manner described in RCW 4.24.050(~~(+but)~~). However, if any such
3 fires shall spread and do damage, the person who kindled the (~~same~~)
4 fire and any person present and concerned in driving (~~such~~) the
5 lumber, by whose act or neglect (~~such~~) the fire is suffered to spread
6 and do damage shall be liable in an action on the case for the amount
7 of damages thereby sustained; and

8 (3) A civil action for property damage to public or private
9 forested lands, including real and personal property on those lands,
10 resulting from a fire that started on or spread from public or private
11 forested lands may be brought only under section 1 of this act.

12 NEW SECTION. Sec. 4. This act does not affect any action relating
13 to the: Imposition of criminal or civil penalties as authorized by
14 law; or recovery of fire suppression costs as authorized under chapter
15 76.04 RCW.

16 NEW SECTION. Sec. 5. This act applies prospectively only and not
17 retroactively. It applies only to causes of action that arise on or
18 after the effective date of this section.

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