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**SUBSTITUTE SENATE BILL 6511**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Natural Resources & Parks (originally sponsored by Senators Parlette, Hargrove, Pearson, and Conway)

AN ACT Relating to forest health through prudent wildfire prevention; amending RCW 70.94.6538 and 76.04.205; adding new sections to chapter 76.04 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that the record-breaking 2014 and 2015 fire seasons have devastated our lands and local economies. Wildfires burned over one million acres in Washington. Nearly five hundred families and businesses saw their homes and structures destroyed by wildfire during the 2015 fire season alone. Communities dependent on seasonal tourism and the agriculture and timber industries struggled with nearly six months of unpredictable closures due to wildfire danger and smoke hazards.

The legislature recognizes that fire is a natural part of forest ecosystems. However, nearly a century of past fire suppression practices have led to excessive fuel accumulation in overstocked stands that are susceptible to intense burns. Past forestland management practices are, therefore, the primary cause of the recent uncharacteristically large and destructive wildfires.

The legislature finds that approximately two million seven hundred thousand acres of the ten million acres of forestland in eastern Washington are at high risk of damage by disease, insects, and wildfire. It is the intent of the legislature to initiate aggressive action to reduce wildfire fuel and restore forest health conditions. The legislature intends to employ all available fire prevention techniques, including mechanical thinning and prescribed fire, to restore Washington forestland health, ensure public health and safety, and support local communities most affected by wildfire.

The legislature finds that prescribed fire is a valuable tool for fuel management and ecosystem restoration. The legislature further finds that over ninety-nine percent of prescribed fires are successfully held within planned perimeters. Short-term risks must be balanced with long-term benefits to fire-dependent ecosystems, habitat, and public safety.

NEW SECTION. **Sec.**  (1)(a) In order to ensure the most efficient and effective mobilization of the state's fire prevention resources, the department of natural resources must identify:

(i) Communities most vulnerable during wildfire season;

(ii) Lands protected by the department that are geographically positioned to potentially threaten the vulnerable communities identified in (a)(i) of this subsection in case of wildfire; and

(iii) Lands located outside of the department's fire protection responsibilities that are geographically positioned to potentially threaten the vulnerable communities identified in (a)(i) of this subsection in case of wildfire.

(b) For lands identified in (a) of this subsection, the department of natural resources must categorize the lands, in whole or in part, according to the following priorities:

(i) State lands with forest health conditions that would benefit from immediate prescribed fire or other swiftly applied forest health treatment, without the need for other concurrent, intensive mechanical treatments, such as thinning;

(ii) Lands other than state lands protected by the department that would benefit from immediate prescribed fire or other swiftly applied forest health treatment, without the need for other concurrent, intensive mechanical treatments, such as thinning; and

(iii) All other lands, according to whether they are under the department's fire protection, and the difficulty of applying necessary forest health treatment.

(2) The department of natural resources must complete forest health treatments identified in subsection (1)(b)(i) of this section by June 30, 2016. By November 30, 2016, the department must complete forest health treatments identified in subsection (1)(b)(ii) of this section in cooperation with willing landowners under cost-sharing and landowner maintenance agreements designed to maximize the number of acres treated.

(3) By December 31, 2016, the department of natural resources must report to the appropriate committees of the legislature with a summary of work completed under this section, barriers to completing forest health treatments identified as necessary under this section, plans for completing forest health treatments identified in subsection (1)(b)(iii) of this section, and recommendations for additional resources or any legislative action needed to complete forest health treatment on all lands identified in this section.

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

(1) The department must develop a twenty-year strategic plan to treat the two million seven hundred thousand acres of Washington forestland identified by the department as being in poor forest health condition. The department must develop the forest health and wildfire prevention strategic plan in consultation with relevant local, state, and federal agencies, tribes, forest landowners, representatives from milling and log transportation industries, and other interested parties from the nonprofit and commercial sectors.

(2) The strategic plan must be updated at least every two years and must include timelines and, at minimum, strategies to:

(a) Facilitate communication and coordination between local, state, federal, and tribal fire personnel;

(b) Improve public education and outreach regarding fire prevention and suppression activities;

(c) Streamline contract procedures to perform forest health treatments on public and private lands;

(d) Expand technical assistance programs for local governmental entities and private landowners; and

(e) Address barriers to wildfire prevention and suppression activities, particularly in rural areas where resources may be limited.

(3) The department must report on the forest health and wildfire prevention strategic plan and its assessment of progress to the appropriate committees of the legislature by December 31, 2017. The report must include relevant fiscal information and recommendations for any legislative action needed to execute the strategic plan.

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

(1) The department must create a prescribed burn manager certification program for those who practice prescribed burning in the state. The certification program must include training on all relevant aspects of prescribed fire in Washington including, but not limited to, the following: Legal requirements; safety; weather; fire behavior; smoke management; prescribed fire techniques; public relations; planning; and contingencies.

(2) The department may not require certification under the program created under subsection (1) of this section for burn permit approval under this chapter. Nothing in this section may be construed as creating a mandatory prescribed burn manager certification requirement to conduct prescribed burning in Washington.

(3) No civil or criminal liability may be imposed by any court on the state or its officers and employees, or a prescribed burn manager certified under the program created under subsection (1) of this section, for any direct or proximate adverse impacts resulting from a prescribed fire conducted under the provisions of this chapter except upon proof of gross negligence or willful or wanton misconduct.

(4) The department may adopt rules to create the prescribed burn manager certification program and to set periodic renewal criteria. The department may also adopt rules to establish a decertification process for certified prescribed burn managers who commit a violation under this chapter or rules adopted under this chapter. The department may, in its own discretion, develop an equivalency test for experienced prescribed burn managers.

**Sec.**  RCW 70.94.6538 and 2009 c 118 s 502 are each amended to read as follows:

The department of natural resources in granting burning permits for fires for the purposes set forth in RCW 70.94.6534 shall condition the issuance and use of such permits to comply with air quality standards established by the department of ecology after full consultation with the department of natural resources. Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the department of ecology, otherwise subject to air pollution from other sources. Air quality standards shall be established and published by the department of ecology which shall also establish a procedure for advising the department of natural resources when and where air contaminant levels exceed or threaten to exceed the ambient air standards over such critical areas. The air quality shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established monitoring stations over such designated areas. Further, such permitted burning shall not cause damage to public health or the environment. All permits issued under this section shall be subject to all applicable fees, permitting, penalty, and enforcement provisions of this chapter. The department of natural resources shall set forth smoke dispersal objectives designed consistent with this section to minimize any air pollution from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging and alternative silviculture practices ((~~to reduce the need for burning~~)) and encourage mechanical thinning and prescribed burning when appropriate for forest health improvement and fire prevention. The department of natural resources shall, whenever practical, encourage landowners to ((~~develop and~~)) use ((~~alternative acceptable~~)) effective and efficient disposal methods ((~~subject to the following priorities~~)), including the following: ((~~(1)~~)) Slash production minimization((~~, (2)~~)); slash utilization((~~, (3)~~)); nonburning disposal((~~, (4)~~)); and silvicultural burning. Such alternative methods shall be evaluated as to the relative impact on air, water, and land pollution, public health, and their financial feasibility.

The department of natural resources shall not issue burning permits and shall revoke previously issued permits at any time in any area where the department of ecology or local board has declared a stage of impaired air quality as defined in RCW 70.94.473.

**Sec.**  RCW 76.04.205 and 1986 c 100 s 17 are each amended to read as follows:

(1) Except in certain areas designated by the department or as permitted under rules adopted by the department, a person shall have a valid written burning permit obtained from the department to burn:

(a) Any flammable material on any lands under the protection of the department; or

(b) Refuse or waste forest material on forestlands protected by the department.

(2) To be valid a permit must be signed by both the department and the permittee. Conditions may be imposed in the permit for the protection of life, property, or air quality and ((~~[the department]~~)) the department may suspend or revoke the permits when conditions warrant. A permit shall be effective only under the conditions and for the period stated therein. Signing of the permit shall indicate the permittee's agreement to and acceptance of the conditions of the permit.

(3) The department may inspect or cause to be inspected the area involved and may issue a burning permit if:

(a) All requirements relating to firefighting equipment, the work to be done, and precautions to be taken before commencing the burning have been met;

(b) No unreasonable danger will result; and

(c) Burning will be done in compliance with air quality standards established by chapter 70.94 RCW.

(4) The department, authorized employees thereof, or any warden or ranger may refuse, revoke, or postpone the use of permits to burn only when necessary for the safety of adjacent property or when ((~~necessary in their judgment to prevent air pollution~~)) there is clear evidence that the particular burn is forecast to contribute to an exceedance of an air quality standard as provided in chapter 70.94 RCW or an imminent threat to public health and safety.

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