

HOUSE BILL REPORT

ESHB 2925

As Passed House:
February 17, 2016

Title: An act relating to accessing land during a fire suppression response for the purpose of protecting livestock from a wildland fire.

Brief Description: Concerning accessing land during a fire suppression response for the purpose of protecting livestock from a wildland fire.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Dent, Blake, McCabe, Schmick, Chandler, Short, Griffey, Johnson, Dye, Haler and Springer).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/3/16, 2/4/16 [DPS].

Floor Activity:

Passed House: 2/17/16, 97-1.

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Natural Resources to allow livestock owners or their employees to access public lands for the purpose of retrieving or caring for livestock during a fire suppression response unless doing so would interfere with an active fire response.
- Creates civil liability immunity for the state if a livestock owner accesses public lands to retrieve livestock during a fire response.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Blake, Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Hurst, Kretz, Lytton, Orcutt, Pettigrew and Schmick.

Minority Report: Do not pass. Signed by 3 members: Representatives Walkinshaw, Vice Chair; Stanford and Van De Wege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jason Callahan (786-7117).

Background:

Wildland Firefighting.

The Department of Natural Resources (DNR) is the agency of the state with the direct charge and responsibility over all matters pertaining to forest fire services in the state. The DNR appoints trained personnel in order to carry out the DNR's duties and is obligated to employ sufficient numbers of personnel to extinguish or prevent the spreading of any fire that may be in danger of damaging or destroying any timber or other property of the DNR.

Also, when in the state's best interest and for the purposes of forest firefighting and patrol, the DNR may cooperate with any agency of another state, the United States or a federal agency, and any county, town, corporation, person, or native American tribe. Further, the DNR may contract and enter agreements with private corporations for the protection and development of the forest lands within the state.

Grazing Leases.

Certain public land managers in the state are authorized to lease land for the purpose of grazing livestock. Agencies with active grazing leases in Washington include the United States Forest Service, the Bureau of Land Management, the Washington State Department of Fish and Wildlife, and the DNR. The DNR may enter into grazing leases on state lands in time increments up to 10 years and charge fees based on a formula that considers the animal units-per-month grazing under the lease. According to the DNR, approximately 1.1 million acres of state land is leased for either grazing or agriculture.

Summary of Engrossed Substitute Bill:

The DNR must make every reasonable effort to accommodate a livestock owner's request to retrieve or care for animals in his or her charge that are at risk due to a wildfire. A livestock owner, or an owner's employee or agent, may only be prohibited from accessing public lands for the purpose of retrieving or caring for livestock during a fire suppression response if the access denial is reasonably necessary to prevent interference with a direct, active fire response.

Any person accessing public lands to retrieve or care for livestock during a fire assumes full liability for himself or herself and any employees or agents in his or her charge. No civil liability may be imposed on the DNR or any other subdivision of the state for any direct or indirect impacts resulting from the retrieval of livestock or the DNR's accommodation of access. This civil liability immunity extends to injury and death.

The DNR must include an explanation of the right to access public lands during a fire response and the corresponding assumption of liability in all grazing leases. The DNR must also incorporate livestock retrieval into any training or coordination it conducts in communities that have active grazing areas.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Grazing lessees have, in the past, been denied access to their leaseholds to retrieve animals that are under threat of wildfire. These animal are not only a large financial investment for the owner, but good animal husbandry makes the owners responsible for their life and health. A loss of an animal represents an economic loss, but also a loss in regards to the duty the owner owes the animal. Regardless of legality, that duty will drive livestock owners to rescue their charges any way that they can. They will do that at their own risk, but never to jeopardize anybody else.

If a livestock owner knows the risk, he or she should be able to assume it and take care of his or her animals without having to break the law.

(Opposed) Livestock may be an investment, but it is not worth more than a human life. If fire overtakes a livestock owner tending to his or her animals, a rescue worker's life will be put at risk to save the livestock owner whether the owner wants to be saved or not. Law enforcement can work with livestock owners and the community ahead of time to arrange plans and model policies to help facilitate livestock owner access as much as possible.

(Other) Fire commanders will always make every effort to allow livestock owners to access their animals. But there is a concern about safety. Safety for the livestock owner, the firefighters, adjacent property owners, and anyone sent in to rescue the livestock owner.

Livestock owners are active participants on local advisory committees, and that avenue may be a way to address the concerns raised in the bill.

Persons Testifying: (In support) Representative Dent, prime sponsor; Jack Field, Washington Cattleman's Association; and Ray Campbell, Okanogan County Commissioner.

(Opposed) Jame McMahan, Washington Association Sheriffs and Police Chiefs.

(Other) Mary Verner, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.