
HOUSE BILL 1677

State of Washington

64th Legislature

2015 Regular Session

By Representatives Short, Kretz, and Schmick

Read first time 01/26/15. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to giving preference to using the nearest
2 available qualified firefighters upon notification of a forest fire;
3 amending RCW 76.04.015; reenacting and amending RCW 43.43.963 and
4 76.04.005; adding a new section to chapter 76.04 RCW; creating a new
5 section; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that preventing the
8 spread of wildfires through prompt fire suppression efforts is
9 essential to protecting homes, farms, and other property, to
10 maintaining rural Washington communities, to preserving wildlife and
11 wildlife habitat, and to defending water quality from fire-triggered
12 landslides and sediment. In order to ensure that the state minimizes
13 wildfire-related losses by responding to fire reports quickly and
14 effectively, it is the intent of the legislature to direct the
15 department of natural resources to utilize qualified local
16 firefighting resources, as identified by each county, whenever the
17 department is overburdened by its firefighting responsibilities and
18 is unable to respond to suppress a fire in a timely manner.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04
20 RCW to read as follows:

1 (1)(a) The county commissioners of each county in the state shall
2 establish and maintain a list of private contract firefighters,
3 firms, corporations, and individuals qualified and available to
4 provide fire suppression services in each county.

5 (b) In developing the list of entities in (a) of this subsection,
6 the county commissioners must consider the entities' firefighting
7 experience, knowledge of local terrain, geography, and community
8 resources, and ownership of or access to and experience with
9 equipment used in fire suppression. Each county must update this list
10 and provide it to the department by June 1st of each year. Each
11 county must also provide updated versions of this list to the
12 county's local organization for emergency services or management by
13 June 1st of each year.

14 (c) Based on the lists submitted by the county commissioners, the
15 department must compile and maintain a statewide list, to be
16 organized by the regions identified in RCW 43.43.963, of private
17 contract firefighters, firms, corporations, and individuals in each
18 county.

19 (2) Within one hour of receiving notification or otherwise
20 learning of an active fire, the department must determine whether
21 government resources are available to be deployed for initial
22 suppression. If the department determines that it does not have
23 sufficient deployable resources available to suppress the fire during
24 initial suppression, it must make contact with the local organization
25 or organizations for emergency services or management to coordinate
26 the utilization of persons or entities on the list developed pursuant
27 to subsection (1) of this section that are available and qualified
28 for the needed initial suppression support, and that are able to
29 respond most quickly to the fire in question as a result of
30 geographic proximity to the fire.

31 (3) No reimbursement to persons or entities who perform fire
32 suppression activities pursuant to this section is allowed unless the
33 state fire services mobilization plan is subsequently mobilized
34 pursuant to RCW 43.43.962 as a result of the fire for which the
35 suppression activities were performed.

36 (4) No civil liability may be imposed by any court on the state,
37 the department, or the officers and employees of the state or
38 department for any direct or proximate adverse impacts resulting from
39 the actions taken under this section during initial suppression, or
40 the actions and activities of the persons or entities utilized by the

1 department under subsection (2) of this section during initial
2 suppression, except upon proof of gross negligence or willful or
3 wanton misconduct by the department, its employees, or the persons or
4 entities utilized by the department under subsection (2) of this
5 section. The barrier to civil liability created by this subsection
6 includes, but is not limited to, impacts on:

7 (a) The persons or entities utilized during initial suppression
8 and their personal property;

9 (b) Any structures, land, or vegetation alterations by persons or
10 entities accessing department-managed land;

11 (c) Other landholdings; and

12 (d) Overall environmental resources.

13 **Sec. 3.** RCW 43.43.963 and 2010 1st sp.s. c 7 s 48 and 2010 c 38
14 s 2 are each reenacted and amended to read as follows:

15 (1) Regions within the state are initially established as follows
16 but may be adjusted as necessary by the state fire marshal:

17 (a) Northwest region - Whatcom, Skagit, Snohomish, San Juan, and
18 Island counties;

19 (b) Northeast region - Okanogan, Ferry, Stevens, Pend Oreille,
20 Spokane, and Lincoln counties;

21 (c) Olympic region - Clallam and Jefferson counties;

22 (d) South Puget Sound region - Kitsap, Mason, King, and Pierce
23 counties;

24 (e) Southeast region - Chelan, Douglas, Kittitas, Grant, Adams,
25 Whitman, Yakima, Klickitat, Benton, Franklin, Walla Walla, Columbia,
26 Garfield, and Asotin counties;

27 (f) Central region - Grays Harbor, Thurston, Pacific, and Lewis
28 counties; and

29 (g) Southwest region - Wahkiakum, Cowlitz, Clark, and Skamania
30 counties.

31 (2)(a) There is created a regional fire defense board within each
32 region created in subsection (1) of this section.

33 (b) The regional fire defense boards shall consist of two members
34 from each county in the region. One member from each county shall be
35 appointed by the county fire chiefs' association or, in the event
36 there is no such county association, by the county's legislative
37 authority. Each county's office of emergency management or, in the
38 event there is no such office, the county's legislative authority
39 shall select the second representative to the regional board. The

1 department of natural resources fire control chief shall appoint a
2 representative from each department of natural resources region to
3 serve as a member of the appropriate regional fire defense board.

4 (c) Members of each regional board will select a chairperson and
5 secretary as officers. Members serving on the regional boards do so
6 in a voluntary capacity and are not eligible for reimbursement for
7 meeting-related expenses from the state.

8 (3)(a) Regional defense boards shall develop regional fire
9 service plans that include provisions for organized fire agencies to
10 respond across municipal, county, or regional boundaries.

11 (b) Each regional plan shall be consistent with the incident
12 command system, the Washington state fire services mobilization plan,
13 the requirements of this section, and regional response plans already
14 adopted and in use in the state. The regional boards shall work with
15 the relevant local government entities to facilitate development of
16 intergovernmental agreements if any such agreements are required to
17 implement a regional fire service plan.

18 (c) Each regional fire service plan must include a mechanism by
19 which a local fire mobilization radio frequency, consistent with RCW
20 76.04.015, is identified and made available during the initial
21 response to any forest fire that crosses jurisdictional lines so that
22 all responders have access to communications during the response.
23 Different initial response frequencies may be identified and used as
24 appropriate in different geographic response areas. If the fire radio
25 communication needs escalate beyond the capability of the identified
26 local radio frequency, the use of other available designated
27 interoperability radio frequencies may be used.

28 (d) Each regional fire service plan must include a strategy to
29 utilize geographically convenient private contract firefighters and
30 other individuals available to provide fire suppression services
31 pursuant to section 2 of this act.

32 (e) Each regional fire service plan shall be approved by the
33 director of fire protection.

34 **Sec. 4.** RCW 76.04.015 and 2012 c 38 s 1 are each amended to read
35 as follows:

36 (1) The department may, at its discretion, appoint trained
37 personnel possessing the necessary qualifications to carry out the
38 duties and supporting functions of the department and may determine
39 their respective salaries.

1 (2) The department shall have direct charge of and supervision of
2 all matters pertaining to the forest fire service of the state.

3 (3) The department shall:

4 (a) Enforce all laws within this chapter;

5 (b) Be empowered to take charge of and direct the work of
6 suppressing forest fires;

7 (c)(i) Investigate the origin and cause of all forest fires to
8 determine whether either a criminal act or negligence by any person,
9 firm, or corporation caused the starting, spreading, or existence of
10 the fire. In conducting investigations, the department shall work
11 cooperatively, to the extent possible, with utilities, property
12 owners, and other interested parties to identify and preserve
13 evidence. Except as provided otherwise in this subsection, the
14 department in conducting investigations is authorized, without court
15 order, to take possession or control of relevant evidence found in
16 plain view and belonging to any person, firm, or corporation. To the
17 extent possible, the department shall notify the person, firm, or
18 corporation of its intent to take possession or control of the
19 evidence. The person, firm, or corporation shall be afforded
20 reasonable opportunity to view the evidence and, before the
21 department takes possession or control of the evidence, also shall be
22 afforded reasonable opportunity to examine, document, and photograph
23 it. If the person, firm, or corporation objects in writing to the
24 department's taking possession or control of the evidence, the
25 department must either return the evidence within seven days after
26 the day on which the department is provided with the written
27 objections or obtain a court order authorizing the continued
28 possession or control.

29 (ii) Absent a court order authorizing otherwise, the department
30 may not take possession or control of evidence over the objection of
31 the owner of the evidence if the evidence is used by the owner in
32 conducting a business or in providing an electric utility service and
33 the department's taking possession or control of the evidence would
34 substantially and materially interfere with the operation of the
35 business or provision of electric utility service.

36 (iii) Absent a court order authorizing otherwise, the department
37 may not take possession or control of evidence over the objection of
38 an electric utility when the evidence is not owned by the utility but
39 has caused damage to property owned by the utility. However, this
40 subsection (3)(c)(iii) does not apply if the department has notified

1 the utility of its intent to take possession or control of the
2 evidence and provided the utility with reasonable time to examine,
3 document, and photograph the evidence.

4 (iv) Only personnel qualified to work on electrical equipment may
5 take possession or control of evidence owned or controlled by an
6 electric utility;

7 (d) Furnish notices or information to the public calling
8 attention to forest fire dangers and the penalties for violation of
9 this chapter;

10 (e) Be familiar with all timbered and cut-over areas of the
11 state; and

12 (f) Regulate and control the official actions of its employees,
13 the wardens, and the rangers.

14 (4) The department may:

15 (a) Authorize all needful and proper expenditures for forest
16 protection;

17 (b) Adopt rules consistent with this section for the prevention,
18 control, and suppression of forest fires as it considers necessary
19 including but not limited to: Fire equipment and materials; use of
20 personnel; and fire prevention standards and operating conditions
21 including a provision for reducing these conditions where justified
22 by local factors such as location and weather;

23 (c) Remove at will the commission of any ranger or suspend the
24 authority of any warden;

25 (d) Inquire into:

26 (i) The extent, kind, value, and condition of all timber lands
27 within the state;

28 (ii) The extent to which timber lands are being destroyed by fire
29 and the damage thereon;

30 (e) Provide fire detection, prevention, presuppression, or
31 suppression services on nonforested public lands managed by the
32 department or another state agency, but only to the extent that
33 providing these services does not interfere with or detract from the
34 obligations set forth in subsection (3) of this section. If the
35 department provides fire detection, prevention, presuppression, or
36 suppression services on nonforested public lands managed by another
37 state agency, the department must be fully reimbursed for the work
38 through a cooperative agreement as provided for in RCW 76.04.135(1).

39 (5) Any rules adopted under this section for the suppression of
40 forest fires must include a mechanism by which a local fire

1 mobilization radio frequency, consistent with RCW 43.43.963, is
2 identified and made available during the initial response to any
3 forest fire that crosses jurisdictional lines so that all responders
4 have access to communications during the response. Different initial
5 response frequencies may be identified and used as appropriate in
6 different geographic response areas. If the fire radio communication
7 needs escalate beyond the capability of the identified local radio
8 frequency, the use of other available designated interoperability
9 radio frequencies may be used.

10 (6) When the department considers it to be in the best interest
11 of the state, it may cooperate with any agency of another state and
12 consistent with the requirement to utilize the nearest available and
13 qualified personnel pursuant to section 2 of this act, the United
14 States or any agency thereof, the Dominion of Canada or any agency or
15 province thereof, and any county, town, corporation, individual, or
16 Indian tribe within the state of Washington in forest firefighting
17 and patrol.

18 **Sec. 5.** RCW 76.04.005 and 2014 c 90 s 1 are each reenacted and
19 amended to read as follows:

20 As used in this chapter, the following terms have the meanings
21 indicated unless the context clearly requires otherwise.

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

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

26 (b) When, due to the effects of disturbance agents, broken, down,
27 dead, or dying trees exist on forest land in sufficient quantity to
28 be likely to further the spread of fire within areas covered by a
29 forest health hazard warning or order issued by the commissioner of
30 public lands under RCW 76.06.180. The term "additional fire hazard"
31 does not include green trees or snags left standing in upland or
32 riparian areas under the provisions of RCW 76.04.465 or chapter 76.09
33 RCW.

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

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

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

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

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

12 (7) "Exploding target" means a device that is designed or
13 marketed to ignite or explode when struck by firearm ammunition or
14 other projectiles.

15 (8) "Forest debris" includes forest slash, chips, and any other
16 vegetative residue resulting from activities on forest land.

17 (9) "Forest fire service" includes all wardens, rangers, and
18 other persons employed especially for preventing or fighting forest
19 fires.

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

27 (11) "Forest landowner," "owner of forest land," "landowner," or
28 "owner" means the owner or the person in possession of any public or
29 private forest land.

30 (12) "Forest material" means forest slash, chips, timber,
31 standing or down, or other vegetation.

32 (13) "Incendiary ammunition" means ammunition that is designed to
33 ignite or explode upon impact with or penetration of a target or
34 designed to trace its course in the air with a trail of smoke,
35 chemical incandescence, or fire.

36 (14) "Landowner operation" means every activity, and supporting
37 activities, of a forest landowner and the landowner's agents,
38 employees, or independent contractors or permittees in the management
39 and use of forest land subject to the forest protection assessment
40 under RCW 76.04.610 for the primary benefit of the owner. The term

1 includes, but is not limited to, the growing and harvesting of forest
2 products, the development of transportation systems, the utilization
3 of minerals or other natural resources, and the clearing of land. The
4 term does not include recreational and/or residential activities not
5 associated with these enumerated activities.

6 (15) "Participating landowner" means an owner of forest land
7 whose land is subject to the forest protection assessment under RCW
8 76.04.610.

9 (16) "Sky lantern" means an unmanned self-contained luminary
10 device that uses heated air produced by an open flame or produced by
11 another source to become or remain airborne.

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

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

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

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

28 (21) "Initial suppression" means the period of time consisting of
29 the first ten hours after the department receives notification of or
30 otherwise learns of an active forest fire.

31 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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