
HOUSE BILL 1491

State of Washington

67th Legislature

2021 Regular Session

By Representatives Orcutt, Fitzgibbon, and Lekanoff; by request of Department of Natural Resources

Read first time 02/05/21. Referred to Committee on Rural Development, Agriculture & Natural Resources.

1 AN ACT Relating to rights-of-way for the transport of timber,
2 minerals, stone, sand, gravel, or other valuable materials; and
3 amending RCW 79.36.350.

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

5 **Sec. 1.** RCW 79.36.350 and 2003 c 334 s 383 are each amended to
6 read as follows:

7 (1) Any person, firm, or corporation engaged in the business of
8 logging or lumbering, quarrying, mining or removing sand, gravel, or
9 other valuable materials from land, and desirous of obtaining a
10 right-of-way for the purpose of transporting or moving timber,
11 minerals, stone, sand, gravel, or other valuable materials from other
12 lands, over and across any state lands, or tide or shore lands
13 belonging to the state, or any such lands sold or leased by the state
14 since the fifteenth day of June, 1911, shall file with the department
15 upon a form to be furnished for that purpose, a written application
16 for such right-of-way, accompanied by a plat showing the location of
17 the right-of-way applied for with references to the boundaries of the
18 government section in which the lands over and across which such
19 right-of-way is desired are located. (~~Upon~~) Except as provided in
20 subsection (2) of this section, upon the filing of such application
21 and plat, the department shall cause the lands embraced within the

1 right-of-way applied for, to be inspected, and all timber thereon,
2 and all damages to the lands affected which may be caused by the use
3 of such right-of-way, to be appraised, and shall notify the applicant
4 of the appraised value of such timber and such appraisement of
5 damages. ~~((Upon))~~ Except as provided in subsection (2) of this
6 section, upon the payment to the department of the amount of the
7 appraised value of timber and damages, the department shall issue in
8 duplicate a right-of-way certificate setting forth the terms and
9 conditions upon which such right-of-way is granted, as provided in
10 the preceding sections, and providing that whenever such right-of-way
11 shall cease to be used for the purpose for which it was granted, or
12 shall not be used in accordance with such terms and conditions, it
13 shall be deemed forfeited. One copy of such certificate shall be
14 filed in the office of the department and one copy delivered to the
15 applicant.

16 (2) The department's obligation to issue a right-of-way
17 certificate as provided in subsection (1) of this section does not
18 apply to an application for a right-of-way over land in which the
19 federal government claims the exclusive right to grant an easement or
20 right-of-way to third parties over such land. However, this exception
21 does not apply where the department disputes the claim by the federal
22 government. The existence of this section may not be deemed an
23 acknowledgment that the federal government holds any such exclusive
24 granting rights.

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