

**HOUSE BILL 1205**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Representatives Belcher, Beck, Scott, Broback, Hargrove, H. Sommers, Bowman, Silver, H. Myers, R. Meyers, Winsley, Edmondson, Wynne and Basich; by request of Department of Natural Resources.

Read first time January 23, 1991. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to forest fires; amending RCW 76.04.495 and  
2 76.04.015; and adding a new section to chapter 76.04 RCW.

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

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

6 The department's statutory duties to prevent and to suppress forest  
7 fires are duties owed to the public in general and not to any  
8 individual person or class of persons separate and apart from the  
9 public in general. Nothing contained in this title, including but not  
10 limited to any provision dealing with payment or collection of forest  
11 protection or fire suppression assessments, may be construed to  
12 evidence a legislative intent that the duty to prevent and suppress  
13 forest fires is owed to any individual person or class of persons  
14 separate and apart from the public in general.

1       **Sec. 2.** RCW 76.04.495 and 1986 c 100 s 33 are each amended to read  
2 as follows:

3       (1) Any person, firm, or corporation: (a) Whose negligence is  
4 responsible for the starting or existence of a fire which spreads on  
5 forest land; or (b) who creates or allows an extreme fire hazard under  
6 RCW 76.04.660 to exist and which hazard contributes to the spread of a  
7 fire; or (c) who allows forest debris subject to RCW 76.04.650 to exist  
8 and which debris contributes to the spread of fire, shall be liable for  
9 any expenses (~~made necessary by~~) incurred as a result of (a), (b), or  
10 (c) of this subsection (~~incurred~~) by the state, a municipality,  
11 (~~or~~) a forest protective association, or any agency of the United  
12 States in fighting the fire, together with costs of investigation and  
13 litigation including reasonable attorneys' fees and taxable court  
14 costs, if the expense was authorized or subsequently approved by the  
15 department.

16       (2) The department or agency incurring such expense shall have a  
17 lien for the same against any property of the person, firm, or  
18 corporation liable under subsection (1) of this section by filing a  
19 claim of lien naming the person, firm, or corporation, describing the  
20 property against which the lien is claimed, specifying the amount  
21 expended on the lands on which the fire fighting took place and the  
22 period during which the expenses were incurred, and signing the claim  
23 with post office address. No claim of lien is valid unless filed, with  
24 the county auditor of the county in which the property sought to be  
25 charged is located, within a period of ninety days after the expenses  
26 of the claimant are incurred. The lien may be foreclosed in the same  
27 manner as a mechanic's lien is foreclosed under the statutes of the  
28 state of Washington.

1       **Sec. 3.** RCW 76.04.015 and 1986 c 100 s 2 are each amended to read  
2 as follows:

3       (1) The department may, at its discretion, appoint trained  
4 personnel possessing the necessary qualifications to carry out the  
5 duties and supporting functions of the department and may determine  
6 their respective salaries.

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

9       (3) The department shall:

10       (a) Enforce all laws within this chapter;

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

13       (c) Investigate the origin and cause of all forest fires to  
14 determine in every case whether either a criminal act or negligence by  
15 any person, firm, or corporation caused the starting or existence of  
16 the fire and, in the course of such investigations, department  
17 investigators shall collect evidence as necessary and may seize  
18 evidence from any person, firm, or corporation upon issuance of a  
19 receipt therefor;

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

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

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

26       (4) The department may:

27       (a) Authorize all needful and proper expenditures for forest  
28 protection;

29       (b) Adopt rules for the prevention, control, and suppression of  
30 forest fires as it considers necessary including but not limited to:

1 Fire equipment and materials; use of personnel; and fire prevention  
2 standards and operating conditions including a provision for reducing  
3 these conditions where justified by local factors such as location and  
4 weather;

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

7 (d) Inquire into:

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

10 (ii) The extent to which timber lands are being destroyed by fire  
11 and the damage thereon.

12 (5) When the department considers it to be in the best interest of  
13 the state, it may cooperate with any agency of another state, the  
14 United States or any agency thereof, the Dominion of Canada or any  
15 agency or province thereof, and any county, town, corporation,  
16 individual, or Indian tribe within the state of Washington in forest  
17 fire fighting and patrol.