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SENATE BILL 5315

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State of Washington

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2007 Regular Session

By Senators Schoesler, Rasmussen, Holmquist, Sheldon, Honeyford, Stevens, Clements, Morton, Delvin, Hatfield and Kilmer

Read first time 01/17/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to property access during forest fires; amending  
2 RCW 76.04.600, 76.04.016, 47.48.040, and 76.04.610; and adding a new  
3 section to chapter 47.48 RCW.

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

5 **Sec. 1.** RCW 76.04.600 and 1986 c 100 s 34 are each amended to read  
6 as follows:

7 (1) Every owner of forest land in the state of Washington shall  
8 furnish or provide, during the season of the year when there is danger  
9 of forest fires, adequate protection against the spread of fire thereon  
10 or therefrom which shall meet with the approval of the department.

11 (2)(a) Residents, landowners, and others in lawful possession and  
12 control of land in the state have the right to access their residences,  
13 forest land, and land not classified as forest land during a forest  
14 fire or wildfire. Specifically, residents, landowners, and others in  
15 lawful possession and control of land have the right to access their  
16 residences and land in order to: (i) Conduct fire prevention or  
17 suppression activities; (ii) protect or retrieve any property located  
18 in their residences or on their land, including equipment, livestock,

1 or any other belongings; or (iii) undertake activities under both  
2 (a)(i) and (ii) of this subsection.

3 (b) To the maximum extent practicable, the department shall allow  
4 and facilitate access to residences and land as set forth in (a) of  
5 this subsection.

6 **Sec. 2.** RCW 76.04.016 and 1993 c 196 s 1 are each amended to read  
7 as follows:

8 (1) The department when acting, in good faith, in its statutory  
9 capacity as a fire prevention and suppression agency, is carrying out  
10 duties owed to the public in general and not to any individual person  
11 or class of persons separate and apart from the public. Nothing  
12 contained in this title, including but not limited to any provision  
13 dealing with payment or collection of forest protection or fire  
14 suppression assessments, may be construed to evidence a legislative  
15 intent that the duty to prevent and suppress forest fires is owed to  
16 any individual person or class of persons separate and apart from the  
17 public in general. This section does not alter the department's duties  
18 and responsibilities as a landowner.

19 (2) The department and its employees and agents are not liable for  
20 any action, or failure to act, under RCW 76.04.600(2).

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.48 RCW  
22 to read as follows:

23 (1) During the closure of any state highway, county road, or city  
24 street under this chapter due to forest fire or wildfire, those state  
25 agencies and local governments authorizing or implementing the closure  
26 shall, to the maximum extent practicable, allow and facilitate access  
27 to residences and land as set forth in RCW 76.04.600(2).

28 (2) State agencies, counties, and cities, and their employees and  
29 agents, are not liable for any action, or failure to act, under  
30 subsection (1) of this section.

31 **Sec. 4.** RCW 47.48.040 and 1977 ex.s. c 216 s 3 are each amended to  
32 read as follows:

33 Except as provided under section 3 of this act, when any state  
34 highway, county road, or city street or portion thereof shall have been  
35 closed, or when the maximum speed limit thereon shall have been

1 reduced, for all vehicles or any class of vehicles, as by law provided,  
2 any person, firm, or corporation disregarding such closing or reduced  
3 speed limit shall be guilty of a misdemeanor, and shall in addition to  
4 any penalty for violation of the provisions of this section, be liable  
5 in any civil action instituted in the name of the state of Washington  
6 or the county or city or town having jurisdiction for any damages  
7 occasioned to such state highway, county road, or city street, as the  
8 case may be, as the result of disregarding such closing or reduced  
9 speed limit.

10 **Sec. 5.** RCW 76.04.610 and 2004 c 216 s 1 are each amended to read  
11 as follows:

12 (1) If any owner of forest land within a forest protection zone  
13 neglects or fails to provide adequate fire protection as required by  
14 RCW 76.04.600(1), the department shall provide such protection and  
15 shall annually impose the following assessments on each parcel of such  
16 land: (a) A flat fee assessment of fourteen dollars and fifty cents;  
17 and (b) twenty-five cents on each acre exceeding fifty acres.  
18 Assessors may, at their option, collect the assessment on tax exempt  
19 lands. If the assessor elects not to collect the assessment, the  
20 department may bill the landowner directly.

21 (2) An owner who has paid assessments on two or more parcels, each  
22 containing fewer than fifty acres and each within the same county, may  
23 obtain the following refund:

24 (a) If all the parcels together contain less than fifty acres, then  
25 the refund is equal to the flat fee assessments paid, reduced by the  
26 total of (i) fourteen dollars and (ii) the total of the amounts  
27 retained by the county from such assessments under subsection (5) of  
28 this section.

29 (b) If all the parcels together contain fifty or more acres, then  
30 the refund is equal to the flat fee assessments paid, reduced by the  
31 total of (i) fourteen dollars, (ii) twenty-five cents for each acre  
32 exceeding fifty acres, and (iii) the total of the amounts retained by  
33 the county from such assessments under subsection (5) of this section.

34 Applications for refunds shall be submitted to the department on a  
35 form prescribed by the department and in the same year in which the  
36 assessments were paid. The department may not provide refunds to

1 applicants who do not provide verification that all assessments and  
2 property taxes on the property have been paid. Applications may be  
3 made by mail.

4 In addition to the procedures under this subsection, property  
5 owners with multiple parcels in a single county who qualify for a  
6 refund under this section may apply to the department on an application  
7 listing all the parcels owned in order to have the assessment computed  
8 on all parcels but billed to a single parcel. Property owners with the  
9 following number of parcels may apply to the department in the year  
10 indicated:

11	Year	Number of Parcels
12	2002	10 or more parcels
13	2003	8 or more parcels
14	2004 and thereafter	6 or more parcels

15 The department must compute the correct assessment and allocate one  
16 parcel in the county to use to collect the assessment. The county must  
17 then bill the forest fire protection assessment on that one allocated  
18 identified parcel. The landowner is responsible for notifying the  
19 department of any changes in parcel ownership.

20 (3) Beginning January 1, 1991, under the administration and at the  
21 discretion of the department up to two hundred thousand dollars per  
22 year of this assessment shall be used in support of those rural fire  
23 districts assisting the department in fire protection services on  
24 forest lands.

25 (4) For the purpose of this chapter, the department may divide the  
26 forest lands of the state, or any part thereof, into districts, for  
27 fire protection and assessment purposes, may classify lands according  
28 to the character of timber prevailing, and the fire hazard existing,  
29 and place unprotected lands under the administration of the proper  
30 district. Amounts paid or contracted to be paid by the department for  
31 protection of forest lands from funds at its disposal shall be a lien  
32 upon the property protected, unless reimbursed by the owner within ten  
33 days after October 1st of the year in which they were incurred. The  
34 department shall be prepared to make statement thereof, upon request,  
35 to a forest owner whose own protection has not been previously approved  
36 as to its adequacy, the department shall report the same to the  
37 assessor of the county in which the property is situated. The assessor  
38 shall extend the amounts upon the tax rolls covering the property, and

1 upon authorization from the department shall levy the forest protection  
2 assessment against the amounts of unimproved land as shown in each  
3 ownership on the county assessor's records. The assessor may then  
4 segregate on the records to provide that the improved land and  
5 improvements thereon carry the millage levy designed to support the  
6 rural fire protection districts as provided for in RCW 52.16.170.

7 (5) The amounts assessed shall be collected at the time, in the  
8 same manner, by the same procedure, and with the same penalties  
9 attached that general state and county taxes on the same property are  
10 collected, except that errors in assessments may be corrected at any  
11 time by the department certifying them to the treasurer of the county  
12 in which the land involved is situated. Assessments shall be known and  
13 designated as assessments of the year in which the amounts became  
14 reimbursable. Upon the collection of assessments the county treasurer  
15 shall place fifty cents of the total assessments paid on a parcel for  
16 fire protection into the county current expense fund to defray the  
17 costs of listing, billing, and collecting these assessments. The  
18 treasurer shall then transmit the balance to the department.  
19 Collections shall be applied against expenses incurred in carrying out  
20 the provisions of this section, including necessary and reasonable  
21 administrative costs incurred by the department in the enforcement of  
22 these provisions. The department may also expend sums collected from  
23 owners of forest lands or received from any other source for necessary  
24 administrative costs in connection with the enforcement of RCW  
25 76.04.660.

26 (6) When land against which forest protection assessments are  
27 outstanding is acquired for delinquent taxes and sold at public  
28 auction, the state shall have a prior lien on the proceeds of sale over  
29 and above the amount necessary to satisfy the county's delinquent tax  
30 judgment. The county treasurer, in case the proceeds of sale exceed  
31 the amount of the delinquent tax judgment, shall immediately remit to  
32 the department the amount of the outstanding forest protection  
33 assessments.

34 (7) All nonfederal public bodies owning or administering forest  
35 land included in a forest protection zone shall pay the forest  
36 protection assessments provided in this section and the special forest  
37 fire suppression account assessments under RCW 76.04.630. The forest  
38 protection assessments and special forest fire suppression account

1 assessments shall be payable by nonfederal public bodies from available  
2 funds within thirty days following receipt of the written notice from  
3 the department which is given after October 1st of the year in which  
4 the protection was provided. Unpaid assessments are not a lien against  
5 the nonfederal publicly owned land but shall constitute a debt by the  
6 nonfederal public body to the department and are subject to interest  
7 charges at the legal rate.

8 (8) A public body, having failed to previously pay the forest  
9 protection assessments required of it by this section, which fails to  
10 suppress a fire on or originating from forest lands owned or  
11 administered by it, is liable for the costs of suppression incurred by  
12 the department or its agent and is not entitled to reimbursement of  
13 costs incurred by the public body in the suppression activities.

14 (9) The department may adopt rules to implement this section,  
15 including, but not limited to, rules on levying and collecting forest  
16 protection assessments.

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