

# SENATE BILL REPORT

## HB 1137

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As Reported by Senate Committee On:  
Agriculture & Rural Economic Development, March 24, 2009

**Title:** An act relating to protecting landowners' investments in Christmas trees.

**Brief Description:** Protecting landowners' investments in Christmas trees.

**Sponsors:** Representatives Finn, Blake, Orcutt, Ormsby, McCune, Morrell, Van De Wege, Sullivan and Herrera.

**Brief History:** Passed House: 2/23/09, 97-0.

**Committee Activity:** Agriculture & Rural Economic Development: 3/16/09, 3/24/09 [DPA].

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass as amended.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

**Staff:** Sam Thompson (786-7413)

**Background:** One of the oldest unrevised sections in the Revised Code of Washington authorizes plaintiffs to recover treble damages from persons injuring or removing timber without lawful authority. While that statute, enacted by the Territorial Legislature in 1881, has broad applicability, later-enacted legislation limits recovery of damages from persons cutting, breaking, or removing Christmas trees without permission to \$1 per tree if payment is made immediately upon demand and \$3 per tree in a civil action. In 1979 the Washington Supreme Court reconciled the apparent conflict between these provisions by ruling that the later-enacted legislation did not deprive an owner of the right to recover damages under the older statute if the owner proved actual damages [*Pearce v. G.R. Kirk Co.*, 92 Wn.2d 869 (1979)]. It is suggested that the provisions limiting recovery of damages in actions concerning Christmas trees be repealed and that the general statute authorizing plaintiffs to recover treble damages from persons injuring or removing timber without lawful authority be revised to specifically encompass Christmas trees.

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*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.*

**Summary of Bill (Recommended Amendments):** Provisions are repealed that limit recovery of damages from persons cutting, breaking, or removing Christmas trees without permission to \$1 per tree if payment is made immediately upon demand and \$3 per tree in a civil action.

The provision authorizing plaintiffs to recover treble damages from persons injuring or removing timber without lawful authority is revised to specifically include Christmas trees within its scope.

A provision concerning liability for removing valuable material from public lands without authority and other offenses is revised to delete a reference to one of the repealed provisions. A provision specifying that trespass upon state public lands and injuring or removing timber constitutes theft under the criminal code is revised to include Christmas trees within its scope. A provision authorizing the state to recover treble damages from persons cutting or removing timber from state public lands without authority is revised to include Christmas trees within its scope.

A definition of "Christmas tree" is referenced: any evergreen trees or the top of the tree, including fir, pine, spruce, cedar, and other coniferous species.

**EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Amendments):** Technical revisions delete references to "villages" (an obsolete municipal class) and make nonsubstantive grammatical changes.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This bill is fair and logical, removing an anomaly for compensation for Christmas tree theft and conforming Christmas tree theft with other timber theft laws.

**Persons Testifying:** PRO: Representative Finn, prime sponsor; Brad Tower, Washington Christmas Tree Growers.