

2 **SHB 2941** - S AMD - 851

3 By Senators Hargrove, Brown and Finkbeiner

4 ADOPTED 3/4/98

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** (1) The legislature finds:

8 (a) Utilities that provide service for the public necessity and
9 convenience, particularly electric, water, and sewer utilities,
10 maintain facilities in rights of way and where easements, both acquired
11 and implied, exist;

12 (b) Vegetation growth on state lands and private properties
13 adjacent to utility facilities can cause damage to utility facilities
14 and pose public safety concerns where such vegetation grows or falls
15 into these facilities; and

16 (c) When vegetation from adjacent land or property causes damage to
17 utility facilities, utility service to customers might be disrupted,
18 collateral damage might occur to other properties, and the general
19 public might be placed in imminent danger.

20 (2) The legislature declares:

21 (a) Utilities have a dual interest in protecting their facilities
22 from potential damages caused by vegetation on adjacent lands or
23 properties and preserving service continuity and reliability for the
24 customer;

25 (b) The cutting or removal of trees, timber, and shrubs by a
26 utility from adjacent lands or properties is often done to protect the
27 utility's facilities, to maintain service continuity and reliability,
28 and to protect the general public, not for commercial or profit-
29 motivated purposes; and

30 (c) Utilities should be immune from liability, including special
31 damages for emotional distress, when a utility cuts or removes from
32 adjacent lands or properties vegetation that has damaged, poses an
33 imminent threat to, or encroached upon utility facilities and the
34 utility has given appropriate notice and opportunity to the land or
35 property owner or resident.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.12 RCW
2 to read as follows:

3 (1) A utility is immune from liability under RCW 64.12.030 and
4 64.12.040, when it cuts or removes any trees, timber, or shrubs that:

5 (a) Have damaged utility facilities or pose a hazard to the general
6 public health, safety, or welfare and the utility makes a reasonable
7 effort as soon as practical to notify and secure agreement from an
8 adjacent land or property owner of record, or the resident of the
9 property, regarding the disposal of any trees, timber, or shrubs that
10 have been cut or removed by the utility;

11 (b) Pose an imminent threat to damage utility facilities and the
12 utility makes a reasonable effort to notify and secure agreement from
13 an adjacent land or property owner of record, or the resident of the
14 property, regarding the cutting or removal and disposal of any trees,
15 timber, or shrubs located on land or property adjacent to utility
16 facilities; or

17 (c) Encroached upon utility facilities and the utility secures an
18 agreement from an adjacent land or property owner of record, or the
19 resident of the property, regarding the cutting or removal and disposal
20 of any trees, timber, or shrubs located on land or property adjacent to
21 utility facilities.

22 (2) Damages under RCW 64.12.030 or 64.12.040 for cutting or removal
23 of natural vegetation by a utility shall be limited to stumpage value.

24 (3) In no event shall a utility be liable for damages for emotional
25 distress for cutting or removing any trees, timber, or shrubs located
26 on land or property adjacent to utility facilities.

27 (4) For the purposes of this section:

28 (a) "Utility facility" means lines, conduits, ducts, poles, wires,
29 pipes, conductors, cables, cross-arms, receivers, transmitters,
30 transformers, instruments, machines, appliances, instrumentalities, and
31 all devices, real estate, easements, apparatus, property, and routes
32 used, operated, owned, or controlled by an electric, water, or sewer
33 utility, natural gas, or telecommunications company, for the purposes
34 of manufacturing, transmitting, distributing, selling, or furnishing
35 electricity, water, sewer, natural gas, or telecommunications services;
36 and

37 (b) "Natural vegetation" means a tree indigenous to the area in
38 which it has grown and is of such age and condition that it can be
39 reasonably determined to have grown naturally in its present location

1 and it was not planted for the purposes of residential aesthetics, or
2 commercial, production, or retail sale."

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6 On page 1, line 2 of the title, after "vegetation;" strike the
7 remainder of the title and insert "adding a new section to chapter
8 64.12 RCW; and creating a new section."

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