

2 **SSB 5154** - H COMM AMD
3 By Committee on Judiciary

4 ADOPTED AS AMENDED 4/14/99

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

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

9 (1) An electric utility is immune from liability under RCW
10 64.12.030, 64.12.040, and 4.24.630 and any claims for general or
11 special damages, including claims of emotional distress, for cutting or
12 removing vegetation located on or originating from land or property
13 adjacent to electric facilities that:

14 (a) Has come in contact with or caused damage to electric
15 facilities;

16 (b) Poses an imminent hazard to the general public health, safety,
17 or welfare and the electric utility provides notice and makes a
18 reasonable effort to obtain an agreement from the resident or property
19 owner present on the property to trim or remove such hazard. For
20 purposes of this subsection (1)(b), notice may be provided by posting
21 a notice or flier in a conspicuous location on the affected property
22 that gives a good faith estimate of the time frame in which the
23 electric utility's trimming or removal work must occur, specifies how
24 the electric utility may be contacted, and explains the responsibility
25 of the resident or property owner to respond pursuant to the
26 requirements of the notice. An electric utility may act without
27 agreement if the resident or property owner fails to respond pursuant
28 to the requirements of the notice. No notice or agreement is necessary
29 if the electric utility's action is necessary to protect life,
30 property, or restore electric service; or

31 (c) Poses a potential threat to damage electric facilities and the
32 electric utility attempts written notice by mail to the last known
33 address of record indicating the intent to act or remove vegetation and
34 secures agreement from the affected property owner of record for the
35 cutting, removing, and disposition of the vegetation. Such notice
36 shall include a brief statement of the need and nature of the work

1 intended that will impact the owner's property or vegetation, a good
2 faith estimate of the time frame in which such work will occur, and how
3 the utility can be contacted regarding the cutting or removal of
4 vegetation. If the affected property owner fails to respond to a
5 notice from the electric utility within two weeks of the date the
6 electric utility provided notice, the electric utility may secure
7 agreement from a resident of the affected property for the cutting,
8 removing, and disposition of vegetation.

9 (2)(a) A hazard to the general public health, safety, or welfare is
10 deemed to exist when:

11 (i) Vegetation has encroached upon electric facilities by
12 overhanging or growing in such close proximity to overhead electric
13 facilities that it constitutes an electrical hazard under applicable
14 electrical construction codes or state and federal health and safety
15 regulations governing persons who are employed or retained by, or on
16 behalf of, an electric utility to construct, maintain, inspect, and
17 repair electric facilities or to trim or remove vegetation; or

18 (ii) Vegetation is visibly diseased, dead, or dying and has been
19 determined by a qualified forester or certified arborist employed or
20 retained by, or on behalf of, an electric utility to be of such
21 proximity to electric facilities that trimming or removal of the
22 vegetation is necessary to avoid contact between the vegetation and
23 electric facilities.

24 (b) The factors to be considered in determining the extent of
25 trimming required to remove a hazard to the general public health,
26 safety, or welfare may include normal tree growth, the combined
27 movement of trees and conductors under adverse weather conditions,
28 voltage, and sagging of conductors at elevated temperatures.

29 (3) A potential threat to damage electric facilities exists when
30 vegetation is of such size, condition, and proximity to electric
31 facilities that it can be reasonably expected to cause damage to
32 electric facilities and, based upon this standard, the vegetation has
33 been determined to pose a potential threat by a qualified forester or
34 certified arborist employed or retained by or on behalf of an electric
35 utility.

36 (4) For the purposes of this section:

37 (a) "Electric facilities" means lines, conduits, ducts, poles,
38 wires, pipes, conductors, cables, cross-arms, receivers, transmitters,
39 transformers, instruments, machines, appliances, instrumentalities, and

1 all devices and apparatus used, operated, owned, or controlled by an
2 electric utility, for the purposes of manufacturing, transforming,
3 transmitting, distributing, selling, or furnishing electricity.

4 (b) "Electric utility" means an electrical company, as defined
5 under RCW 80.04.010, a municipal electric utility formed under Title 35
6 RCW, a public utility district formed under Title 54 RCW, an irrigation
7 district formed under chapter 87.03 RCW, a cooperative formed under
8 chapter 23.86 RCW, and a mutual corporation or association formed under
9 chapter 24.06 RCW, that is engaged in the business of distributing
10 electricity in the state.

11 (c) "Vegetation" means trees, timber, or shrubs.

12 **Sec. 2.** RCW 4.24.630 and 1994 c 280 s 1 are each amended to read
13 as follows:

14 (1) Every person who goes onto the land of another and who removes
15 timber, crops, minerals, or other similar valuable property from the
16 land, or wrongfully causes waste or injury to the land, or wrongfully
17 injures personal property or improvements to real estate on the land,
18 is liable to the injured party for treble the amount of the damages
19 caused by the removal, waste, or injury. For purposes of this section,
20 a person acts "wrongfully" if the person intentionally and unreasonably
21 commits the act or acts while knowing, or having reason to know, that
22 he or she lacks authorization to so act. Damages recoverable under
23 this section include, but are not limited to, damages for the market
24 value of the property removed or injured, and for injury to the land,
25 including the costs of restoration. In addition, the person is liable
26 for reimbursing the injured party for the party's reasonable costs,
27 including but not limited to investigative costs and reasonable
28 attorneys' fees and other litigation-related costs.

29 (2) This section does not apply in any case where liability for
30 damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, (~~(or)~~)
31 79.40.070, or where there is immunity from liability under section 1 of
32 this act.

33 NEW SECTION. **Sec. 3.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected."

1 Correct the title.

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