
SUBSTITUTE HOUSE BILL 2925

State of Washington

64th Legislature

2016 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Dent, Blake, McCabe, Schmick, Chandler, Short, Griffey, Johnson, Dye, Haler, and Springer)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to accessing land during a fire suppression
2 response for the purpose of protecting livestock from a wildland
3 fire; amending RCW 76.04.015 and 79.13.060; and adding a new section
4 to chapter 76.04 RCW.

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

6 **Sec. 1.** RCW 76.04.015 and 2015 c 182 s 5 are each amended to
7 read as follows:

8 (1) The department may, at its discretion, appoint trained
9 personnel possessing the necessary qualifications to carry out the
10 duties and supporting functions of the department and may determine
11 their respective salaries.

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

14 (3) The department shall:

15 (a) Enforce all laws within this chapter;

16 (b) Be empowered to take charge of and, consistent with section 2
17 of this act, direct the work of suppressing forest fires;

18 (c)(i) Investigate the origin and cause of all forest fires to
19 determine whether either a criminal act or negligence by any person,
20 firm, or corporation caused the starting, spreading, or existence of
21 the fire. In conducting investigations, the department shall work

1 cooperatively, to the extent possible, with utilities, property
2 owners, and other interested parties to identify and preserve
3 evidence. Except as provided otherwise in this subsection, the
4 department in conducting investigations is authorized, without court
5 order, to take possession or control of relevant evidence found in
6 plain view and belonging to any person, firm, or corporation. To the
7 extent possible, the department shall notify the person, firm, or
8 corporation of its intent to take possession or control of the
9 evidence. The person, firm, or corporation shall be afforded
10 reasonable opportunity to view the evidence and, before the
11 department takes possession or control of the evidence, also shall be
12 afforded reasonable opportunity to examine, document, and photograph
13 it. If the person, firm, or corporation objects in writing to the
14 department's taking possession or control of the evidence, the
15 department must either return the evidence within seven days after
16 the day on which the department is provided with the written
17 objections or obtain a court order authorizing the continued
18 possession or control.

19 (ii) Absent a court order authorizing otherwise, the department
20 may not take possession or control of evidence over the objection of
21 the owner of the evidence if the evidence is used by the owner in
22 conducting a business or in providing an electric utility service and
23 the department's taking possession or control of the evidence would
24 substantially and materially interfere with the operation of the
25 business or provision of electric utility service.

26 (iii) Absent a court order authorizing otherwise, the department
27 may not take possession or control of evidence over the objection of
28 an electric utility when the evidence is not owned by the utility but
29 has caused damage to property owned by the utility. However, this
30 subsection (3)(c)(iii) does not apply if the department has notified
31 the utility of its intent to take possession or control of the
32 evidence and provided the utility with reasonable time to examine,
33 document, and photograph the evidence.

34 (iv) Only personnel qualified to work on electrical equipment may
35 take possession or control of evidence owned or controlled by an
36 electric utility;

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

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

3 (f) Maximize the effective utilization of local fire suppression
4 assets consistent with RCW 76.04.181; and

5 (g) Regulate and control the official actions of its employees,
6 the wardens, and the rangers.

7 (4) The department may:

8 (a) Authorize all needful and proper expenditures for forest
9 protection;

10 (b) Adopt rules consistent with this section for the prevention,
11 control, and suppression of forest fires as it considers necessary
12 including but not limited to: Fire equipment and materials; use of
13 personnel; and fire prevention standards and operating conditions
14 including a provision for reducing these conditions where justified
15 by local factors such as location and weather;

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

18 (d) Inquire into:

19 (i) The extent, kind, value, and condition of all timberlands
20 within the state;

21 (ii) The extent to which timberlands are being destroyed by fire
22 and the damage thereon;

23 (e) Provide fire detection, prevention, presuppression, or
24 suppression services on nonforested public lands managed by the
25 department or another state agency, but only to the extent that
26 providing these services does not interfere with or detract from the
27 obligations set forth in subsection (3) of this section. If the
28 department provides fire detection, prevention, presuppression, or
29 suppression services on nonforested public lands managed by another
30 state agency, the department must be fully reimbursed for the work
31 through a cooperative agreement as provided for in RCW 76.04.135(1).

32 (5) Any rules adopted under this section for the suppression of
33 forest fires must include a mechanism by which a local fire
34 mobilization radio frequency, consistent with RCW 43.43.963, is
35 identified and made available during the initial response to any
36 forest fire that crosses jurisdictional lines so that all responders
37 have access to communications during the response. Different initial
38 response frequencies may be identified and used as appropriate in
39 different geographic response areas. If the fire radio communication
40 needs escalate beyond the capability of the identified local radio

1 frequency, the use of other available designated interoperability
2 radio frequencies may be used.

3 (6) When the department considers it to be in the best interest
4 of the state, it may cooperate with any agency of another state, the
5 United States or any agency thereof, the Dominion of Canada or any
6 agency or province thereof, and any county, town, corporation,
7 individual, or Indian tribe within the state of Washington in forest
8 firefighting and patrol.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04
10 RCW to read as follows:

11 (1)(a) The department must make every reasonable effort to
12 accommodate a livestock owner's request to retrieve or care for
13 animals in his or her charge that are at risk due to a wildfire.

14 (b) The department may only prohibit livestock owners, or
15 qualified animal handling employees of a livestock owner, from
16 retrieving or caring for livestock that are lawfully present on the
17 public lands during any fire suppression response if doing so is
18 necessary to prevent interference with a direct, active fire
19 response.

20 (2) The department must incorporate the implementation of this
21 section into any prefire season training or coordination conducted in
22 local communities that contain active grazing areas.

23 (3)(a) The owner of livestock lawfully present on public lands
24 assumes full liability for any damages incurred to himself or
25 herself, and any employees or agents in his or her charge, if public
26 lands are accessed to retrieve or care for livestock during the time
27 of a fire suppression response by the department affecting the public
28 lands in question.

29 (b) No civil liability may be imposed by any court on the state,
30 the department, or another subdivision of the state for any direct or
31 indirect adverse impacts, including injury or death, resulting from a
32 livestock owner, or the owner's employees or agents, accessing public
33 lands to retrieve or care for livestock during the time of a fire
34 suppression response by the department affecting the public lands in
35 question.

36 **Sec. 3.** RCW 79.13.060 and 2007 c 504 s 2 are each amended to
37 read as follows:

1 (1) State lands may be leased not to exceed ten years with the
2 following exceptions:

3 (a) The lands may be leased for agricultural purposes not to
4 exceed twenty-five years, except:

5 (i) Leases that authorize tree fruit or grape production may be
6 for up to fifty-five years;

7 (ii) Share crop leases may not exceed ten years;

8 (b) The lands may be leased for commercial, industrial, business,
9 or recreational purposes not to exceed fifty-five years;

10 (c) The lands may be leased for public school, college, or
11 university purposes not to exceed seventy-five years;

12 (d) The lands may be leased for residential purposes not to
13 exceed ninety-nine years; and

14 (e) The lands and development rights on state lands held for the
15 benefit of the common schools may be leased to public agencies, as
16 defined in RCW 79.17.200, not to exceed ninety-nine years. The leases
17 may include provisions for renewal of lease terms.

18 (2) No lessee of state lands may remain in possession of the land
19 after the termination or expiration of the lease without the written
20 consent of the department.

21 (a) The department may authorize a lease extension for a specific
22 period beyond the term of the lease for cropping improvements for the
23 purpose of crop rotation. These improvements shall be deemed
24 authorized improvements under RCW 79.13.030.

25 (b) Upon expiration of the lease term, the department may allow
26 the lessee to continue to hold the land for a period not exceeding
27 one year upon such rent, terms, and conditions as the department may
28 prescribe, if the leased land is not otherwise utilized.

29 (c) Upon expiration of the one-year lease extension, the
30 department may issue a temporary permit to the lessee upon terms and
31 conditions it prescribes if the department has not yet determined the
32 disposition of the land for other purposes.

33 (d) The temporary permit shall not extend beyond a five-year
34 period.

35 (3) If during the term of the lease of any state lands for
36 agricultural, grazing, commercial, residential, business, or
37 recreational purposes, in the opinion of the department it is in the
38 best interest of the state so to do, the department may, on the
39 application of the lessee and in agreement with the lessee, alter and
40 amend the terms and conditions of the lease. The sum total of the

1 original lease term and any extension thereof shall not exceed the
2 limits provided in this section.

3 (4) The department must include in the text of any grazing leases
4 language that explains the right of access, and associated assumption
5 of liability, created in section 2 of this act.

--- END ---