
SENATE BILL 6511

State of Washington

64th Legislature

2016 Regular Session

By Senators Parlette, Hargrove, Pearson, and Conway

Read first time 01/22/16. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to forest health through prudent wildfire
2 prevention; amending RCW 70.94.6538 and 76.04.205; adding new
3 sections to chapter 76.04 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the record-
6 breaking 2014 and 2015 fire seasons have devastated our lands and
7 local economies. Wildfires burned over one million acres in
8 Washington. Nearly five hundred families and businesses saw their
9 homes and structures destroyed by wildfire during the 2015 fire
10 season alone. Communities dependent on seasonal tourism and the
11 agriculture and timber industries struggled with nearly six months of
12 unpredictable closures due to wildfire danger and smoke hazards.

13 The legislature recognizes that fire is a natural part of forest
14 ecosystems. However, nearly a century of past fire suppression
15 practices have led to excessive fuel accumulation in overstocked
16 stands that are susceptible to intense burns. Past forestland
17 management practices are, therefore, the primary cause of the recent
18 uncharacteristically large and destructive wildfires.

19 The legislature finds that approximately two million seven
20 hundred thousand acres of the ten million acres of forestland in
21 eastern Washington are at high risk of damage by disease, insects,

1 and wildfire. It is the intent of the legislature to initiate
2 aggressive action to reduce wildfire fuel and restore forest health
3 conditions. The legislature intends to employ all available fire
4 prevention techniques, including mechanical thinning and prescribed
5 fire, to restore Washington forestland health, ensure public health
6 and safety, and support local communities most affected by wildfire.

7 The legislature finds that prescribed fire is a valuable tool for
8 fuel management and ecosystem restoration. The legislature further
9 finds that over ninety-nine percent of prescribed fires are
10 successfully held within planned perimeters. Short-term risks must be
11 balanced with long-term benefits to fire-dependent ecosystems,
12 habitat, and public safety.

13 NEW SECTION. **Sec. 2.** (1)(a) In order to ensure the most
14 efficient and effective mobilization of the state's fire prevention
15 resources, the department of natural resources must identify:

16 (i) Communities most vulnerable during wildfire season;

17 (ii) Lands protected by the department that are geographically
18 positioned to potentially threaten the vulnerable communities
19 identified in (a)(i) of this subsection in case of wildfire; and

20 (iii) Lands located outside of the department's fire protection
21 responsibilities that are geographically positioned to potentially
22 threaten the vulnerable communities identified in (a)(i) of this
23 subsection in case of wildfire.

24 (b) For lands identified in (a) of this subsection, the
25 department of natural resources must categorize the lands, in whole
26 or in part, according to the following priorities:

27 (i) State lands with forest health conditions that would benefit
28 from immediate prescribed fire or other swiftly applied forest health
29 treatment, without the need for other concurrent, intensive
30 mechanical treatments, such as thinning;

31 (ii) Lands other than state lands protected by the department
32 that would benefit from immediate prescribed fire or other swiftly
33 applied forest health treatment, without the need for other
34 concurrent, intensive mechanical treatments, such as thinning; and

35 (iii) All other lands, according to whether they are under the
36 department's fire protection, and the difficulty of applying
37 necessary forest health treatment.

38 (2) The department of natural resources must complete forest
39 health treatments identified in subsection (1)(b)(i) of this section

1 by June 30, 2016. By November 30, 2016, the department must complete
2 forest health treatments identified in subsection (1)(b)(ii) of this
3 section in cooperation with willing landowners under cost-sharing and
4 landowner maintenance agreements designed to maximize the number of
5 acres treated.

6 (3) By December 31, 2016, the department of natural resources
7 must report to the appropriate committees of the legislature with a
8 summary of work completed under this section, barriers to completing
9 forest health treatments identified as necessary under this section,
10 plans for completing forest health treatments identified in
11 subsection (1)(b)(iii) of this section, and recommendations for
12 additional resources or any legislative action needed to complete
13 forest health treatment on all lands identified in this section.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 76.04
15 RCW to read as follows:

16 (1) The department must develop a twenty-year strategic plan to
17 treat the two million seven hundred thousand acres of Washington
18 forestland identified by the department as being in poor forest
19 health condition. The department must develop the forest health and
20 wildfire prevention strategic plan in consultation with relevant
21 local, state, and federal agencies, tribes, forest landowners,
22 representatives from milling and log transportation industries, and
23 other interested parties from the nonprofit and commercial sectors.

24 (2) The strategic plan must be updated at least every two years
25 and must include timelines and, at minimum, strategies to:

26 (a) Facilitate communication and coordination between local,
27 state, federal, and tribal fire personnel;

28 (b) Improve public education and outreach regarding fire
29 prevention and suppression activities;

30 (c) Streamline contract procedures to perform forest health
31 treatments on public and private lands;

32 (d) Expand technical assistance programs for local governmental
33 entities and private landowners; and

34 (e) Address barriers to wildfire prevention and suppression
35 activities, particularly in rural areas where resources may be
36 limited.

37 (3) The department must report on the forest health and wildfire
38 prevention strategic plan and its assessment of progress to the
39 appropriate committees of the legislature by December 31, 2017. The

report must include relevant fiscal information and recommendations for any legislative action needed to execute the strategic plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 76.04 RCW to read as follows:

(1) The department must create a prescribed burn manager certification program for those who practice prescribed burning in the state. The certification program must include training on all relevant aspects of prescribed fire in Washington including, but not limited to, the following: Legal requirements; safety; weather; fire behavior; smoke management; prescribed fire techniques; public relations; planning; and contingencies.

(2) The department may not require certification under the program created under subsection (1) of this section for burn permit approval under this chapter. Nothing in this section may be construed as creating a mandatory prescribed burn manager certification requirement to conduct prescribed burning in Washington.

(3) No civil or criminal liability may be imposed by any court on the state or its officers and employees, or a prescribed burn manager certified under the program created under subsection (1) of this section, for any direct or proximate adverse impacts resulting from a prescribed fire conducted under the provisions of this chapter except upon proof of gross negligence or willful or wanton misconduct.

(4) The department may adopt rules to create the prescribed burn manager certification program and to set periodic renewal criteria. The department may also adopt rules to establish a decertification process for certified prescribed burn managers who commit a violation under this chapter or rules adopted under this chapter. The department may, in its own discretion, develop an equivalency test for experienced prescribed burn managers.

Sec. 5. RCW 70.94.6538 and 2009 c 118 s 502 are each amended to read as follows:

The department of natural resources in granting burning permits for fires for the purposes set forth in RCW 70.94.6534 shall condition the issuance and use of such permits to comply with air quality standards established by the department of ecology after full consultation with the department of natural resources. Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical

1 areas designated by the department of ecology, otherwise subject to
2 air pollution from other sources. Air quality standards shall be
3 established and published by the department of ecology which shall
4 also establish a procedure for advising the department of natural
5 resources when and where air contaminant levels exceed or threaten to
6 exceed the ambient air standards over such critical areas. The air
7 quality shall be quantitatively measured by the department of ecology
8 or the appropriate local air pollution control authority at
9 established monitoring stations over such designated areas. Further,
10 such permitted burning shall not cause damage to public health or the
11 environment. All permits issued under this section shall be subject
12 to all applicable fees, permitting, penalty, and enforcement
13 provisions of this chapter. The department of natural resources shall
14 set forth smoke dispersal objectives designed consistent with this
15 section to minimize any air pollution from such burning and the
16 procedures necessary to meet those objectives.

17 The department of natural resources shall encourage more intense
18 utilization in logging and alternative silviculture practices (~~((to~~
19 ~~reduce the need for burning))~~) and encourage mechanical thinning and
20 prescribed burning when appropriate for forest health improvement and
21 fire prevention. The department of natural resources shall, whenever
22 practical, encourage landowners to (~~((develop and))~~) use (~~((alternative~~
23 ~~acceptable))~~) effective and efficient disposal methods (~~((subject to~~
24 ~~the following priorities))~~), including the following: ((+1)) Slash
25 production minimization(~~((, —(2)))~~); slash utilization(~~((, —(3)))~~);
26 nonburning disposal(~~((, —(4)))~~); and silvicultural burning. Such
27 alternative methods shall be evaluated as to the relative impact on
28 air, water, and land pollution, public health, and their financial
29 feasibility.

30 The department of natural resources shall not issue burning
31 permits and shall revoke previously issued permits at any time in any
32 area where the department of ecology or local board has declared a
33 stage of impaired air quality as defined in RCW 70.94.473.

34 **Sec. 6.** RCW 76.04.205 and 1986 c 100 s 17 are each amended to
35 read as follows:

36 (1) Except in certain areas designated by the department or as
37 permitted under rules adopted by the department, a person shall have
38 a valid written burning permit obtained from the department to burn:

1 (a) Any flammable material on any lands under the protection of
2 the department; or

3 (b) Refuse or waste forest material on forestlands protected by
4 the department.

5 (2) To be valid a permit must be signed by both the department
6 and the permittee. Conditions may be imposed in the permit for the
7 protection of life, property, or air quality and (~~(the department)~~)
8 the department may suspend or revoke the permits when conditions
9 warrant. A permit shall be effective only under the conditions and
10 for the period stated therein. Signing of the permit shall indicate
11 the permittee's agreement to and acceptance of the conditions of the
12 permit.

13 (3) The department may inspect or cause to be inspected the area
14 involved and may issue a burning permit if:

15 (a) All requirements relating to firefighting equipment, the work
16 to be done, and precautions to be taken before commencing the burning
17 have been met;

18 (b) No unreasonable danger will result; and

19 (c) Burning will be done in compliance with air quality standards
20 established by chapter 70.94 RCW.

21 (4) The department, authorized employees thereof, or any warden
22 or ranger may refuse, revoke, or postpone the use of permits to burn
23 only when necessary for the safety of adjacent property or when
24 (~~(necessary in their judgment to prevent air pollution)~~) there is
25 clear evidence of an impending violation of air quality standards as
26 provided in chapter 70.94 RCW or an imminent threat to public health
27 and safety.

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