
SECOND SUBSTITUTE HOUSE BILL 1784

State of Washington **66th Legislature** **2019 Regular Session**

By House Appropriations (originally sponsored by Representatives Kretz, Blake, and Shea)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to wildfire prevention; amending RCW 76.06.200
2 and 76.04.015; and creating a new section.

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

4 **Sec. 1.** RCW 76.06.200 and 2017 c 95 s 1 are each amended to read
5 as follows:

6 (1) The department must establish a forest health assessment and
7 treatment framework designed to proactively and systematically
8 address the forest health issues facing the state. Specifically, the
9 framework must endeavor to achieve an initial goal of assessing and
10 treating one million acres of land by 2033.

11 (2) The department must utilize the framework to assess and treat
12 acreage in an incremental fashion each biennium. The framework
13 consists of three elements: Assessment; treatment; and progress
14 review and reporting.

15 (a) Assessment. Each biennium, the department must identify and
16 assess two hundred thousand acres of fire prone lands and communities
17 that are in need of forest health treatment, including the use of
18 prescribed fire or mechanical treatment, such as thinning.

19 (i) The scope of the assessment must include lands protected by
20 the department as well as lands outside of the department's fire

1 protection responsibilities that could pose a high risk to department
2 protected lands during a fire.

3 (ii) The assessment must identify areas in need of treatment, the
4 type or types of treatment recommended, data and planning needs to
5 carry out recommended treatment, and the estimated cost of
6 recommended treatment.

7 (b) Treatment. Each biennium, the department must review
8 previously completed assessments and prioritize and conduct as many
9 identified treatments as possible using appropriations provided for
10 that specific purpose.

11 (c) Progress review and reporting. By December 1st of each even-
12 numbered year, the department must provide the appropriate committees
13 of the legislature and the office of financial management with:

14 (i) A request for appropriations designed to implement the
15 framework in the following biennium, including assessment work and
16 conducting treatments identified in previously completed assessments;

17 (ii) A prioritized list and brief summary of treatments planned
18 to be conducted under the framework with the requested
19 appropriations, including relevant information from the assessment;
20 and

21 (iii) A list and brief summary of treatments carried out under
22 the framework in the preceding biennium, including total funding
23 available, costs for completed treatment, and treatment outcomes. The
24 summary must include any barriers to framework implementation and
25 legislative or administrative recommendations to address those
26 barriers.

27 (3) In developing and implementing the framework, the department
28 must:

29 (a) Utilize and build on the forest health strategic planning
30 initiated under section 308(11), chapter 36, Laws of 2016 sp. sess.,
31 to the maximum extent practicable, to promote the efficient use of
32 resources; (~~and~~)

33 (b) Prioritize, to the maximum extent practicable consistent with
34 this section, forest health treatments that are strategically planned
35 to serve the dual benefits of forest health maximization while
36 providing geographically planned tools for wildfire response; and

37 (c) Establish a forest health advisory committee to assist in
38 developing and implementing the framework. The committee may: (i)
39 Include representation from large and small forest landowners,
40 wildland fire response organizations, milling and log transportation

1 industries, forest collaboratives that may exist in the affected
2 areas, highly affected communities and community preparedness
3 organizations, conservation groups, and other interested parties
4 deemed appropriate by the commissioner; and (ii) consult with
5 relevant local, state, and federal agencies, and tribes.

6 (4) In implementing subsection (3)(b) of this section, the
7 department shall attempt to locate and design forest health
8 treatments in such a way as to provide wildfire response personnel
9 with strategically located treated areas to assist with managing fire
10 response. These areas must attempt to maximize the firefighting
11 benefits of natural and artificial geographic features and be located
12 in areas that prioritize the protection of commercially managed lands
13 from fires originating on public land.

14 (5) The department must establish and implement the forest health
15 assessment and treatment framework within the appropriations
16 specifically provided for this purpose.

17 **Sec. 2.** RCW 76.04.015 and 2016 c 109 s 1 are each amended to
18 read as follows:

19 (1) The department may, at its discretion, appoint trained
20 personnel possessing the necessary qualifications to carry out the
21 duties and supporting functions of the department and may determine
22 their respective salaries.

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

25 (3) The department shall:

26 (a) Enforce all laws within this chapter;

27 (b) Be empowered to take charge of and, consistent with RCW
28 76.04.021, direct the work of suppressing forest fires;

29 (c)(i) Investigate the origin and cause of all forest fires to
30 determine whether either a criminal act or negligence by any person,
31 firm, or corporation caused the starting, spreading, or existence of
32 the fire. In conducting investigations, the department shall work
33 cooperatively, to the extent possible, with utilities, property
34 owners, and other interested parties to identify and preserve
35 evidence. Except as provided otherwise in this subsection, the
36 department in conducting investigations is authorized, without court
37 order, to take possession or control of relevant evidence found in
38 plain view and belonging to any person, firm, or corporation. To the
39 extent possible, the department shall notify the person, firm, or

1 corporation of its intent to take possession or control of the
2 evidence. The person, firm, or corporation shall be afforded
3 reasonable opportunity to view the evidence and, before the
4 department takes possession or control of the evidence, also shall be
5 afforded reasonable opportunity to examine, document, and photograph
6 it. If the person, firm, or corporation objects in writing to the
7 department's taking possession or control of the evidence, the
8 department must either return the evidence within seven days after
9 the day on which the department is provided with the written
10 objections or obtain a court order authorizing the continued
11 possession or control.

12 (ii) Absent a court order authorizing otherwise, the department
13 may not take possession or control of evidence over the objection of
14 the owner of the evidence if the evidence is used by the owner in
15 conducting a business or in providing an electric utility service and
16 the department's taking possession or control of the evidence would
17 substantially and materially interfere with the operation of the
18 business or provision of electric utility service.

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

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

30 (d) Furnish notices or information to the public calling
31 attention to forest fire dangers and the penalties for violation of
32 this chapter;

33 (e) Be familiar with all timbered and cut-over areas of the
34 state, areas where forest health treatments were undertaken on state,
35 federal, or private land, public general transportation roads and
36 public and private logging roads, water bodies, and other features on
37 the landscape relevant in planning a fire response and include those
38 features on a geographic information system for use by fire response
39 personnel to assist in response decision making;

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

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

5 (4) The department may:

6 (a) Authorize all needful and proper expenditures for forest
7 protection;

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

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

16 (d) Inquire into:

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

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

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

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

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

7 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2019, in the omnibus appropriations act, this
10 act is null and void.

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