

RCW 76.04.770 Authorization to enter privately or publicly owned land to extinguish or control a wildland fire—Limitation of liability.

(1) (a) An individual may, consistent with this section, enter privately owned or publicly owned land for the purposes of attempting to extinguish or control a wildland fire, regardless of whether the individual owns the land, when fighting the wildland fire in that particular time and location can be reasonably considered a public necessity due to an imminent danger.

(b) No civil or criminal liability may be imposed by any court on an individual acting pursuant to this section for any direct or proximate adverse impacts resulting from an individual's access to land for the purposes of attempting to extinguish or control a wildland fire when fighting the wildland fire in that particular time and location can be reasonably considered a public necessity, except upon proof of gross negligence or willful or wanton misconduct by the individual.

(c) An individual may enter land under this subsection (1) only if:

(i) There is an active fire on or in near proximity to the land;

(ii) The individual has a reasonable belief that the local fire conditions are creating an emergency situation and that there is an imminent danger of a fire growing or spreading to or from the parcel of land being entered;

(iii) The individual has a reasonable belief that preventive measures will extinguish or control the wildfire;

(iv) The individual has a reasonable belief that he or she is capable of taking preventive measures;

(v) The individual only undertakes measures that are reasonable and necessary until professional wildfire suppression personnel arrives;

(vi) The individual does not continue to take suppression actions after specific direction to cease from the landowner;

(vii) The individual takes preventive measures only for the period of time until efforts to control the wildfire have been assumed by professional wildfire suppression personnel, unless explicitly authorized by professional wildland firefighting personnel to remain engaged in suppressing the fire;

(viii) The individual follows the instructions of professional wildland firefighting personnel, including ceasing to engage in firefighting activities, when directed to do so by professional wildland firefighting personnel; and

(ix) The individual promptly notifies emergency personnel and the landowner, lessee, or occupant prior to entering the land or within a reasonable time after the individual attempts to extinguish or control the wildland fire.

(d) Nothing in this section authorizes any person to materially benefit from accessing land or retain any valuable materials that may be collected or harvested during the time the individual attempts to extinguish or control the wildland fire.

(e) (i) The authority to enter privately owned or publicly owned land under this subsection (1) is limited to the minimum necessary activities reasonably required to extinguish or control the wildland fire.

(ii) Activities that may be reasonable under this subsection (1) include, but are not limited to: Using hand tools to clear the ground of debris, operating readily available water hoses, clearing flammable

materials from the vicinity of structures, unlocking or opening gates to assist firefighter access, and safely scouting and reporting fire behavior.

(iii) Activities that do not fall within the scope of this subsection (1)(e), due to the high potential for adverse consequences, include, but are not limited to: Lighting a fire in an attempt to stop the spread of another fire; using explosives as a firefighting technique; using aircraft for fire suppression; and directing other individuals to engage in firefighting.

(f) Nothing in this subsection (1) confers a legal or civil duty or obligation on a person to attempt to extinguish or control a wildfire.

(2)(a) No civil or criminal liability may be imposed by any court on the owner, lessee, or occupant of any land accessed as permitted under subsection (1) of this section for any direct or proximate adverse impacts resulting from the access to privately owned or publicly owned land allowed under subsection (1) of this section, except upon proof of willful or wanton misconduct by the owner, lessee, or occupant. The barriers to civil and criminal liability imposed by this subsection include, but are not limited to, impacts on:

(i) The individual accessing the privately owned or publicly owned land and the individual's personal property, including loss of life;

(ii) Any structures or land alterations constructed by individuals entering the privately owned or publicly owned land;

(iii) Other landholdings; and

(iv) Overall environmental resources.

(b) This subsection (2) does not apply in any case where liability for damages is provided under RCW 4.24.040.

(3) Nothing in this section limits or otherwise effects any other statutory or common law provisions relating to land access or the control of a conflagration. [2015 c 182 s 4.]