

---

SENATE BILL 5025

---

State of Washington

53rd Legislature

1993 Regular Session

By Senator Owen

Read first time 01/11/93. Referred to Committee on Natural Resources.

1 AN ACT Relating to forest fires; amending RCW 76.04.495 and  
2 76.04.015; and adding a new section to chapter 76.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04 RCW  
5 to read as follows:

6 The department when acting, in good faith, in its statutory  
7 capacity as a fire prevention and suppression agency, is carrying out  
8 duties owed to the public in general and not to any individual person  
9 or class of persons separate and apart from the public. Nothing  
10 contained in this title, including but not limited to any provision  
11 dealing with payment or collection of forest protection or fire  
12 suppression assessments, may be construed to evidence a legislative  
13 intent that the duty to prevent and suppress forest fires is owed to  
14 any individual person or class of persons separate and apart from the  
15 public in general. This section does not alter the department's duties  
16 and responsibilities as a landowner.

17 **Sec. 2.** RCW 76.04.495 and 1986 c 100 s 33 are each amended to read  
18 as follows:

1 (1) Any person, firm, or corporation: (a) Whose negligence is  
2 responsible for the starting or existence of a fire which spreads on  
3 forest land; or (b) who creates or allows an extreme fire hazard under  
4 RCW 76.04.660 to exist and which hazard contributes to the spread of a  
5 fire; or (c) who allows forest debris subject to RCW 76.04.650 to exist  
6 and which debris contributes to the spread of fire, shall be liable for  
7 any expenses made necessary by (a), (b), or (c) of this subsection  
8 (~~incurred by~~). The state, a municipality, (~~or~~) a forest protective  
9 association, or any agency of the United States may recover such  
10 expenses incurred in fighting the fire, together with costs of  
11 investigation and litigation including reasonable attorneys' fees and  
12 taxable court costs, if the expense was authorized or subsequently  
13 approved by the department.

14 (2) The department or agency incurring such expense shall have a  
15 lien for the same against any property of the person, firm, or  
16 corporation liable under subsection (1) of this section by filing a  
17 claim of lien naming the person, firm, or corporation, describing the  
18 property against which the lien is claimed, specifying the amount  
19 expended on the lands on which the fire fighting took place and the  
20 period during which the expenses were incurred, and signing the claim  
21 with post office address. No claim of lien is valid unless filed, with  
22 the county auditor of the county in which the property sought to be  
23 charged is located, within a period of ninety days after the expenses  
24 of the claimant are incurred. The lien may be foreclosed in the same  
25 manner as a mechanic's lien is foreclosed under the statutes of the  
26 state of Washington.

27 **Sec. 3.** RCW 76.04.015 and 1986 c 100 s 2 are each amended to read  
28 as follows:

29 (1) The department may, at its discretion, appoint trained  
30 personnel possessing the necessary qualifications to carry out the  
31 duties and supporting functions of the department and may determine  
32 their respective salaries.

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

35 (3) The department shall:

36 (a) Enforce all laws within this chapter;

37 (b) Be empowered to take charge of and direct the work of  
38 suppressing forest fires;

1 (c) Investigate the origin and cause of all forest fires to  
2 determine in every case whether either a criminal act or negligence by  
3 any person, firm, or corporation caused the starting or existence of  
4 the fire. In the course of investigations, the department shall have  
5 authority to take possession or control of relevant evidence found in  
6 plain view belonging to any person, firm, or corporation. If the owner  
7 of the property objects, the department must obtain, within fourteen  
8 days, a court order authorizing the continued possession;

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

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

13 (f) Regulate and control the official actions of its employees, the  
14 wardens, and the rangers.

15 (4) The department may:

16 (a) Authorize all needful and proper expenditures for forest  
17 protection;

18 (b) Adopt rules for the prevention, control, and suppression of  
19 forest fires as it considers necessary including but not limited to:  
20 Fire equipment and materials; use of personnel; and fire prevention  
21 standards and operating conditions including a provision for reducing  
22 these conditions where justified by local factors such as location and  
23 weather;

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

26 (d) Inquire into:

27 (i) The extent, kind, value, and condition of all timber lands  
28 within the state;

29 (ii) The extent to which timber lands are being destroyed by fire  
30 and the damage thereon.

31 (5) When the department considers it to be in the best interest of  
32 the state, it may cooperate with any agency of another state, the  
33 United States or any agency thereof, the Dominion of Canada or any  
34 agency or province thereof, and any county, town, corporation,  
35 individual, or Indian tribe within the state of Washington in forest  
36 fire fighting and patrol.

--- END ---