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HOUSE BILL 1055

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State of Washington

56th Legislature

1999 Regular Session

By Representative McMorris

Read first time 01/13/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to licensing consulting foresters; adding a new  
2 chapter to Title 18 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that it is a matter of  
5 public necessity that forest resources in Washington be managed  
6 properly. It is the intent of the legislature to provide for the  
7 protection and benefit of the public by ensuring application of the  
8 highest standards relative to the practice of consulting forestry and  
9 to provide protection of the public from unqualified consulting  
10 forestry practitioners.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply  
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Board" means the state board of consulting foresters.

14 (2) "Department" means the department of licensing.

15 (3) "Consulting forester" means a person who, by reason of his or  
16 her knowledge of the natural sciences, mathematics, and the principles  
17 of forestry acquired by forestry education or experience, performs  
18 forestry services for the public on a fee basis, including but not

1 limited to, consultation, investigation, evaluation, planning, or  
2 responsible supervision of forestry activities when the services  
3 require the application of forestry principles and techniques.

4 (4) "Consulting forestry" means all professional services relating  
5 to the forest resources of the state that require the application of  
6 forestry principles, data, and techniques as acquired by experience,  
7 training, and education. Such services include, but are not limited  
8 to, consultation, investigations, evaluations, planning, and the  
9 formation and implementation of forestry policies when such activities  
10 require the application of forestry practices, data, and techniques.

11 (5) "Forestry" means the science and practice of managing forested  
12 landscapes and the treatment of the forest cover in general, and  
13 includes, among other things, the application of scientific knowledge  
14 and forestry principles in the fields of fuel management and forest  
15 protection, timber growing and utilization, forest inventories, forest  
16 economics, forest valuation and finance, and the evaluation and  
17 mitigation of impacts from forestry activities on watershed values, to  
18 achieve the purposes of this chapter. The practice of forestry applies  
19 only to those activities undertaken on forested landscapes. "Forestry"  
20 shall not include those activities performed by wildlife biologists,  
21 fisheries biologists, botanists, ecological restorationists, stream  
22 restorationists, hydrologists, or geologists.

23 (6) "Government forester" means any forester who is a regular full-  
24 time employee of a federal, state, or local governmental entity engaged  
25 in the management of public lands or renders extension forestry  
26 services to the public.

27 (7) "Industrial forestry business" means a private business which  
28 possesses expertise in consulting forestry and forestry, or that is  
29 engaged in the manufacture of wood products from raw materials  
30 harvested from the business's own land.

31 (8) "Person" means a natural person.

32 NEW SECTION. **Sec. 3.** No person shall receive income, whether  
33 directly or indirectly, for engaging in the practice of consulting  
34 forestry, or advertise as engaging in such practice, or solicit  
35 business in such practice, including but not limited to foresters whose  
36 responsibilities include industry-sponsored forestry assistance  
37 programs for landowners and government foresters who advise private

1 landowners, unless the person holds a valid license issued by the  
2 board. This section shall not prohibit, prevent, or affect:

3 (1) Any person from practicing forestry on his or her own land,  
4 including application for forest practices permits;

5 (2) Any government forester from practicing forestry on government  
6 land;

7 (3) Any person from practicing any other recognized profession or  
8 trade, including but not limited to vendors of tree planting, timber  
9 stand improvement practices, pesticide application, pest control, site  
10 preparation, heavy equipment, fire control activities, and timber  
11 harvesting;

12 (4) Any person employed by a forestry business from practicing  
13 forestry on the business's land;

14 (5) An industrial forestry business from engaging the services of  
15 an independent contractor to perform forestry tasks and projects  
16 directed or designed by the business; or

17 (6) Any person from practicing forestry under the direct  
18 supervision of a licensed consulting forester.

19 NEW SECTION. **Sec. 4.** There is created a state board of consulting  
20 foresters within the department to administer the provisions of this  
21 chapter. The board shall consist of five members appointed by the  
22 governor as follows: Three members shall be consulting foresters, two  
23 of whom shall be appointed from a list of at least three names  
24 submitted by nationally recognized professional forestry societies and  
25 associations; two members shall be members of the public, one of whom  
26 shall be appointed from a list of at least three names submitted by a  
27 recognized state-wide organization representing nonindustrial forest  
28 landowners; and the remaining public member shall be a person who is  
29 not, and never has been, a member of the forestry profession, or a  
30 relative of such a person, and who does not have and never has had, a  
31 material financial interest in the provision of forestry services or in  
32 an activity directly related to forestry. Each consulting forester  
33 member shall have actively practiced the profession of consulting  
34 forestry for at least ten years prior to appointment.

35 NEW SECTION. **Sec. 5.** (1) The initial members of the board shall  
36 serve for the following terms: One member for one year, one member for  
37 two years, one member for three years, one member for four years, and

1 one member for five years. All five members of the first board must be  
2 appointed on the same date and shall serve their respective terms from  
3 the date of appointment.

4 (2) By virtue of their appointment, the initial three consulting  
5 forester members of the board shall issue to themselves the licenses as  
6 consulting foresters and pay the fees required under this chapter once  
7 the fees are established. After the initial three consulting forester  
8 members of the board have so qualified and been administered their  
9 oaths of office, no person shall be appointed as a consulting forester  
10 member of the board unless such person, at the time appointed, is a  
11 licensed consulting forester under this chapter.

12 (3) On the expiration of the term of each member, the governor  
13 shall appoint a successor to serve for a term of five years. Members  
14 of the board hold their offices until their successors are appointed.  
15 No member shall serve more than two consecutive terms.

16 (4) A quorum of the board shall be three members.

17 (5) The governor may remove any member of the board for cause.  
18 Vacancies on the board shall be filled by appointment for the unexpired  
19 term.

20 (6) In carrying out the provisions of this chapter, the members of  
21 the board shall be reimbursed for travel expenses in accordance with  
22 RCW 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 6.** The board has the following powers and  
24 duties:

25 (1) To adopt rules governing the holding of meetings and hearings,  
26 applications for licenses, and any other duties necessary for the  
27 administration of this chapter;

28 (2) To establish and issue standards of practice and a code of  
29 ethics for consulting foresters and provide for the enforcement of such  
30 standards and the code of ethics;

31 (3) To establish minimum requirements for professional continuing  
32 education;

33 (4) To prepare a biennial roster of the names, business addresses,  
34 and other information as the board deems necessary of all licensed  
35 consulting foresters licensed under this chapter;

36 (5) To issue, suspend, or revoke licenses;

37 (6) To investigate and conduct hearings concerning alleged  
38 violations of this chapter; and

1 (7) To keep a record of its proceedings and a register of all  
2 applicants for licensing.

3 NEW SECTION. **Sec. 7.** (1) The minimum requirements for licensure  
4 as a consulting forester prior to January 1, 2002, are:

5 (a) Evidence of seven or more years' experience in practicing  
6 forestry and performing the services of a consulting forester that is  
7 satisfactory to the board; or

8 (b) Passage of a written examination administered by the board  
9 indicating that the applicant is competent to practice consulting  
10 forestry.

11 (2) The minimum requirements for licensure after January 1, 2002,  
12 are:

13 (a) Graduation in forestry or a related field, requiring study of  
14 four years or more, from a school, college, or university approved by  
15 the board;

16 (b) Evidence of five or more years' experience in practicing  
17 forestry and performing the services of a consulting forester  
18 satisfactory to the board; and

19 (c) Passage of a written examination administered by the board  
20 indicating that the applicant is competent to practice consulting  
21 forestry.

22 Evidence of seven or more years' experience in practicing forestry  
23 and performing the services of a consulting forester satisfactory to  
24 the board may substitute for the education and experience requirements  
25 of (a) and (b) of this subsection.

26 NEW SECTION. **Sec. 8.** An application for a consulting forester  
27 license shall be filed with the board before the date set for  
28 examination. The application fee shall be determined by the board and  
29 shall include a nonrefundable examination fee and a fee for issuance of  
30 the license. The examination fee must be paid to the board by thirty  
31 days before the date of the examination.

32 NEW SECTION. **Sec. 9.** (1) Examinations of applicants for licenses  
33 shall be held at least annually and at such times and places as the  
34 board may determine.

35 (2) The scope of the examination and methods of procedure shall be  
36 prescribed by the board. The examination must cover timber management,

1 including the ability to evaluate and appraise timber, use of  
2 contracts, applicable state statutes and rules, including labor and  
3 industries, and similar subjects necessary to the practice of  
4 consulting forestry.

5 NEW SECTION. **Sec. 10.** The board shall issue a license with a  
6 license number, upon payment of the license fee, to a qualified  
7 applicant who is certified by the board as having passed the required  
8 examination and as having given satisfactory proof of completion of the  
9 required experience to the board and who, in the opinion of the board,  
10 has satisfactorily met all the requirements of this chapter and the  
11 rules of the board.

12 NEW SECTION. **Sec. 11.** All plans, maps, specifications, and  
13 reports issued by a licensed consulting forester shall be endorsed with  
14 the name of the licensed consulting forester and a license number. No  
15 licensed consulting forester shall endorse any plan, specification,  
16 estimate, map, or related document unless he or she actually prepared  
17 or directly supervised the preparation of such document.

18 NEW SECTION. **Sec. 12.** No business, partnership, or corporation  
19 may be licensed to practice consulting forestry. Licensing shall be  
20 determined on the basis of individual personal qualifications.

21 NEW SECTION. **Sec. 13.** (1) The initial license expires on the  
22 second anniversary of the licensee's birthday following the issuance of  
23 the license and biennially thereafter.

24 (2) A licensee may renew a license prior to its expiration by  
25 paying any required license renewal fee to the board and submitting  
26 proof of compliance with continuing education requirements.

27 NEW SECTION. **Sec. 14.** The board, upon application and payment of  
28 a fee determined by the board, may issue a license without further  
29 examination to a person who is legally licensed as a consulting  
30 forester in a state other than Washington and meets requirements set by  
31 the board. The requirements for licensure in the person's licensing  
32 state must be substantially equivalent to the requirements of this  
33 chapter and the state in which he or she is so licensed must observe  
34 the same rules of reciprocity granted under this chapter.

1        NEW SECTION.    **Sec. 15.**    The board has the power, after notice and  
2 hearing, to suspend or revoke the license of any licensee or assess  
3 administrative penalties against a licensee who:

4        (1) Is found liable for fraud, deceit, gross negligence, gross  
5 incompetency, or gross misconduct in the practice of consulting  
6 forestry;

7        (2) Is found liable by the board of unprofessional or unethical  
8 conduct;

9        (3) Has had his or her license suspended or revoked for cause in  
10 another jurisdiction;

11       (4) Fails to comply with the continuing education requirements  
12 established by the board;

13       (5) Has directly or indirectly through another person or entity,  
14 purchased or attempted to purchase timber from a landowner while  
15 providing forestry services for the landowner;

16       (6) Gives false or forged evidence of any kind to the board in  
17 obtaining a license;

18       (7) Uses an expired or revoked license; or

19       (8) Endorses any plan, specification, estimate, map, or related  
20 document unless he or she actually prepared or directly supervised the  
21 preparation of such document.

22       NEW SECTION.    **Sec. 16.**    (1) If, after investigation, the board  
23 determines there is reason to believe a violation of this chapter has  
24 taken place, the board shall prepare a statement of allegations and  
25 serve the statement on the licensee or license applicant. All  
26 procedures related to hearings shall be in accordance with the  
27 administrative procedure act, chapter 34.05 RCW.

28       (2) In conducting hearings, any member of the board may administer  
29 oaths to witnesses appearing before the board, subpoena witnesses and  
30 compel their attendance, and require the production of books, records,  
31 papers, and documents. If any person refuses to obey any subpoena  
32 issued, or refuses to testify or to produce any books, records, papers,  
33 or documents required to be produced, the board may present a petition  
34 to the superior court of the county in which the person resides,  
35 setting forth the facts, and the court may, in a proper case, enter an  
36 order compelling compliance with this chapter and imposing other terms  
37 and conditions as the court deems equitable.

1 (3) Any person who feels aggrieved by any action of the board may  
2 appeal to the superior court of the county in which he or she resides.  
3 The court shall review the board's proceedings on the record presented  
4 and may, in a proper case, sustain or dismiss the appeal, or modify or  
5 vacate the board's order. However, in case the order is modified or  
6 vacated, the court may also, in its discretion, remand the matter to  
7 the board for further proceedings consistent with the court's order.

8 NEW SECTION. **Sec. 17.** (1) It is a misdemeanor for any person to:

9 (a) Practice consulting forestry without being licensed in  
10 accordance with this chapter;

11 (b) Use in connection with his or her name, or otherwise assume,  
12 use, or advertise any title or description tending to convey the  
13 impression that he or she is a licensed consulting forester without  
14 being licensed in accordance with this chapter;

15 (c) Present or attempt to use as his or her own the license of  
16 another;

17 (d) Give false or forged evidence of any kind to the board in  
18 obtaining a license;

19 (e) Use an expired or revoked license; or

20 (f) Endorse any plan, specification, estimate, map, or related  
21 document unless he or she actually prepared or directly supervised the  
22 preparation of such document.

23 (2) The board shall refer criminal violations of this chapter to  
24 the appropriate prosecuting attorney for prosecution. A person  
25 convicted of a misdemeanor shall be punished according to RCW 9.92.030.

26 (3) The state attorney general or his or her designated assistant  
27 shall act as legal advisor to the board and render such assistance as  
28 may be necessary in carrying out the provisions of this chapter.

29 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act  
30 constitute a new chapter in Title 18 RCW.

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