

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1409

60th Legislature
2007 Regular Session

Passed by the House April 16, 2007
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 10, 2007
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1409** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1409

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives B. Sullivan, Orcutt, Kretz and Takko)

READ FIRST TIME 02/08/07.

1 AN ACT Relating to the transfer of jurisdiction over conversion-
2 related forest practices to local governments; amending RCW 76.09.240;
3 and adding a new section to chapter 36.70A RCW.

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

5 **Sec. 1.** RCW 76.09.240 and 2002 c 121 s 2 are each amended to read
6 as follows:

7 (1) ~~((By December 31, 2005, each county and each city shall adopt~~
8 ~~ordinances or promulgate regulations setting standards for those Class~~
9 ~~IV forest practices regulated by local government. The regulations~~
10 ~~shall: (a) Establish minimum standards for Class IV forest practices;~~
11 ~~(b) set forth necessary administrative provisions; and (c) establish~~
12 ~~procedures for the collection and administration of forest practices~~
13 ~~and recording fees as set forth in this chapter.~~

14 ~~(2) Class IV forest practices regulations shall be administered and~~
15 ~~enforced by the counties and cities that promulgate them.~~

16 ~~(3) The forest practices board shall continue to promulgate~~
17 ~~regulations and the department shall continue to administer and enforce~~
18 ~~the regulations promulgated by the board in each county and each city~~
19 ~~for all forest practices as provided in this chapter until such time~~

1 as, in the opinion of the department, the county or city has
2 promulgated forest practices regulations that meet the requirements as
3 set forth in this section and that meet or exceed the standards set
4 forth by the board in regulations in effect at the time the local
5 regulations are adopted. Regulations promulgated by the county or city
6 thereafter shall be reviewed in the usual manner set forth for county
7 or city rules or ordinances. Amendments to local ordinances must meet
8 or exceed the forest practices rules at the time the local ordinances
9 are amended.

10 (a) Department review of the initial regulations promulgated by a
11 county or city shall take place upon written request by the county or
12 city. The department, in consultation with the department of ecology,
13 may approve or disapprove the regulations in whole or in part.

14 (b) Until January 1, 2006, the department shall provide technical
15 assistance to all counties or cities that have adopted forest practices
16 regulations acceptable to the department and that have assumed
17 regulatory authority over all Class IV forest practices within their
18 jurisdiction.

19 (c) Decisions by the department approving or disapproving the
20 initial regulations promulgated by a county or city may be appealed to
21 the forest practices appeals board, which has exclusive jurisdiction to
22 review the department's approval or disapproval of regulations
23 promulgated by counties and cities.

24 (4)) On or before December 31, 2008:

25 (a) Counties planning under RCW 36.70A.040, and the cities and
26 towns within those counties, where more than a total of twenty-five
27 Class IV forest practices applications, as defined in RCW 76.09.050(1)
28 Class IV (a) through (d), have been filed with the department between
29 January 1, 2003, and December 31, 2005, shall adopt and enforce
30 ordinances or regulations as provided in subsection (2) of this section
31 for the following:

32 (i) Forest practices classified as Class I, II, III, and IV that
33 are within urban growth areas designated under RCW 36.70A.110, except
34 for forest practices on ownerships of contiguous forest land equal to
35 or greater than twenty acres where the forest landowner provides, to
36 the department and the county, a written statement of intent, signed by
37 the forest landowner, not to convert to a use other than growing

1 commercial timber for ten years. This statement must be accompanied by
2 either:
3 (A) A written forest management plan acceptable to the department;
4 or
5 (B) Documentation that the land is enrolled as forest land of long-
6 term commercial significance under the provisions of chapter 84.33 RCW;
7 and
8 (ii) Forest practices classified as Class IV, outside urban growth
9 areas designated under RCW 36.70A.110, involving either timber harvest
10 or road construction, or both on:
11 (A) Lands platted after January 1, 1960, as provided in chapter
12 58.17 RCW;
13 (B) Lands that have or are being converted to another use; or
14 (C) Lands which, under RCW 76.09.070, are not to be reforested
15 because of the likelihood of future conversion to urban development;
16 (b) Counties planning under RCW 36.70A.040, and the cities and
17 towns within those counties, not included in (a) of this subsection,
18 may adopt and enforce ordinances or regulations as provided in (a) of
19 this subsection; and
20 (c) Counties not planning under RCW 36.70A.040, and the cities and
21 towns within those counties, may adopt and enforce ordinances or
22 regulations as provided in subsection (2) of this section for forest
23 practices classified as Class IV involving either timber harvest or
24 road construction, or both on:
25 (i) Lands platted after January 1, 1960, as provided in chapter
26 58.17 RCW;
27 (ii) Lands that have or are being converted to another use; or
28 (iii) Lands which, under RCW 76.09.070, are not to be reforested
29 because of the likelihood of future conversion to urban development.
30 (2) Before a county, city, or town may regulate forest practices
31 under subsection (1) of this section, it shall ensure that its critical
32 areas and development regulations are in compliance with RCW 36.70A.130
33 and, if applicable, RCW 36.70A.215. The county, city, or town shall
34 notify the department and the department of ecology in writing sixty
35 days prior to adoption of the development regulations required in this
36 section. The transfer of jurisdiction shall not occur until the
37 county, city, or town has notified the department, the department of
38 revenue, and the department of ecology in writing of the effective date

1 of the regulations. Ordinances and regulations adopted under
2 subsection (1) of this section and this subsection must be consistent
3 with or supplement development regulations that protect critical areas
4 pursuant to RCW 36.70A.060, and shall at a minimum include:

5 (a) Provisions that require appropriate approvals for all phases of
6 the conversion of forest lands, including land clearing and grading;
7 and

8 (b) Procedures for the collection and administration of permit and
9 recording fees.

10 (3) Activities regulated by counties, cities, or towns as provided
11 in subsections (1) and (2) of this section shall be administered and
12 enforced by those counties, cities, or towns. The department shall not
13 regulate these activities under this chapter.

14 (4) The board shall continue to adopt rules and the department
15 shall continue to administer and enforce those rules in each county,
16 city, or town for all forest practices as provided in this chapter
17 until such a time as the county, city, or town has updated its
18 development regulations as required by RCW 36.70A.130 and, if
19 applicable, RCW 36.70A.215, and has adopted ordinances or regulations
20 under subsections (1) and (2) of this section. However, counties,
21 cities, and towns that have adopted ordinances or regulations regarding
22 forest practices prior to the effective date of this section are not
23 required to readopt their ordinances or regulations in order to satisfy
24 the requirements of this section.

25 (5) Upon request, the department shall provide technical assistance
26 to all counties, cities, and towns while they are in the process of
27 adopting the regulations required by this section, and after the
28 regulations become effective.

29 (6) For those forest practices over which the board and the
30 department maintain regulatory authority no county, city, municipality,
31 or other local or regional governmental entity shall adopt or enforce
32 any law, ordinance, or regulation pertaining to forest practices,
33 except that to the extent otherwise permitted by law, such entities may
34 exercise any:

35 (a) Land use planning or zoning authority: PROVIDED, That exercise
36 of such authority may regulate forest practices only: (i) Where the
37 application submitted under RCW 76.09.060 as now or hereafter amended
38 indicates that the lands have been or will be converted to a use other

1 than commercial forest product production; or (ii) on lands which have
2 been platted after January 1, 1960, as provided in chapter 58.17 RCW:
3 PROVIDED, That no permit system solely for forest practices shall be
4 allowed; that any additional or more stringent regulations shall not be
5 inconsistent with the forest practices regulations enacted under this
6 chapter; and such local regulations shall not unreasonably prevent
7 timber harvesting;

8 (b) Taxing powers;

9 (c) Regulatory authority with respect to public health; and

10 (d) Authority granted by chapter 90.58 RCW, the "Shoreline
11 Management Act of 1971".

12 (7) To improve the administration of the forest excise tax created
13 in chapter 84.33 RCW, a county, city, or town that regulates forest
14 practices under this section shall report permit information to the
15 department of revenue for all approved forest practices permits. The
16 permit information shall be reported to the department of revenue no
17 later than sixty days after the date the permit was approved and shall
18 be in a form and manner agreed to by the county, city, or town and the
19 department of revenue. Permit information includes the landowner's
20 legal name, address, telephone number, and parcel number.

21 NEW SECTION. Sec. 2. A new section is added to chapter 36.70A RCW
22 to read as follows:

23 (1) Each county, city, and town assuming regulation of forest
24 practices as provided in RCW 76.09.240 (1) and (2) shall adopt
25 development regulations that:

26 (a) Protect public resources, as defined in RCW 76.09.020, from
27 material damage or the potential for material damage;

28 (b) Require appropriate approvals for all phases of the conversion
29 of forest lands, including clearing and grading;

30 (c) Are guided by the planning goals in RCW 36.70A.020 and by the
31 purposes and policies of the forest practices act as set forth in RCW
32 76.09.010; and

33 (d) Are consistent with or supplement development regulations that
34 protect critical areas pursuant to RCW 36.70A.060.

35 (2) If necessary, each county, city, or town that assumes
36 regulation of forest practices under RCW 76.09.240 shall amend its

1 comprehensive plan to ensure consistency between its comprehensive plan
2 and development regulations.

3 (3) Before a county, city, or town may regulate forest practices
4 under RCW 76.09.240 (1) and (2), it shall update its development
5 regulations as required by RCW 36.70A.130 and, if applicable, RCW
6 36.70A.215. Forest practices regulations adopted under RCW 76.09.240
7 (1) and (2) may be adopted as part of the legislative action taken
8 under RCW 36.70A.130 or 36.70A.215.

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