

HB 1137 - S COMM AMD

By Committee on Agriculture & Rural Economic Development

ADOPTED 04/07/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 79.02.300 and 2004 c 199 s 207 are each amended to
4 read as follows:

5 (1) Every person who, without authorization, uses or occupies
6 public lands, removes any valuable material as defined in RCW 79.02.010
7 from public lands, or causes waste or damage to public lands, or
8 injures publicly owned personal property or publicly owned improvements
9 to real property on public lands, is liable to the state for treble the
10 amount of the damages. However, liability shall be for single damages
11 if the department determines, or the person proves upon trial, that the
12 person, at time of the unauthorized act or acts, did not know, or have
13 reason to know, that he or she lacked authorization. Damages
14 recoverable under this section include, but are not limited to, the
15 market value of the use, occupancy, or things removed, had the use,
16 occupancy, or removal been authorized; and any damages caused by injury
17 to the land, publicly owned personal property or publicly owned
18 improvement, including the costs of restoration. In addition, the
19 person is liable for reimbursing the state for its reasonable
20 costs(~~(7)~~) including, but not limited to, its administrative costs,
21 survey costs to the extent they are not included in damages awarded for
22 restoration costs, and its reasonable attorneys' fees and other legal
23 costs.

24 (2) This section does not apply in any case where liability for
25 damages is provided under RCW (~~(64.12.030,)~~) 4.24.630, 64.12.030, or
26 79.02.320(~~(, or 79.02.340)~~).

27 (3) The department is authorized and directed to investigate all
28 trespasses and wastes upon, and damages to, public lands of the state,
29 and to cause prosecutions for, and/or actions for the recovery of the
30 same, to be commenced as (~~(is)~~) provided by law.

1 **Sec. 2.** RCW 79.02.310 and 2003 c 53 s 379 are each amended to read
2 as follows:

3 Every person who willfully commits any trespass upon any public
4 lands of the state and cuts down, destroys, or injures any timber, or
5 any tree, including a Christmas tree as defined in RCW 76.48.020,
6 standing or growing thereon, or takes, or removes, or causes to be
7 taken, or removed, therefrom any wood or timber lying thereon, or
8 maliciously injures or severs anything attached thereto, or the produce
9 thereof, or digs, quarries, mines, takes or removes therefrom any
10 earth, soil, stone, mineral, clay, sand, gravel, or any valuable
11 materials, is guilty of theft under chapter 9A.56 RCW.

12 **Sec. 3.** RCW 79.02.320 and 1927 c 255 s 199 are each amended to
13 read as follows:

14 Every person who shall cut or remove, or cause to be cut or
15 removed, any timber growing or being upon any public lands of the
16 state, including a Christmas tree as defined in RCW 76.48.020, or who
17 shall manufacture the same into logs, bolts, shingles, lumber or other
18 articles of use or commerce, unless expressly authorized so to do by a
19 bill of sale from the state, or by a lease or contract from the state
20 under which he or she holds possession of such lands, or by ~~((the))~~
21 provisions of law under ~~((and by virtue of))~~ which ~~((such))~~ the bill of
22 sale, lease or contract was issued, shall be liable to the state ~~((in))~~
23 for treble the value of the timber or other articles ~~((so))~~ cut,
24 removed, or manufactured, to be recovered in a civil action, and shall
25 forfeit to the state all interest in ~~((and to))~~ any article into which
26 ~~((said))~~ the timber is manufactured.

27 **Sec. 4.** RCW 64.12.030 and Code 1881 s 602 are each amended to read
28 as follows:

29 Whenever any person shall cut down, girdle, or otherwise injure, or
30 carry off any tree, including a Christmas tree as defined in RCW
31 76.48.020, timber, or shrub on the land of another person, or on the
32 street or highway in front of any person's house, ~~((village, town or))~~
33 city or town lot, or cultivated grounds, or on the commons or public
34 grounds of any ~~((village, town or))~~ city or town, or on the street or
35 highway in front thereof, without lawful authority, in an action by
36 ~~((such))~~ the person, ~~((village, town or))~~ city, or town against the

1 person committing (~~such~~) the trespasses or any of them, (~~if~~) any
2 judgment (~~be given~~) for the plaintiff(~~, it~~) shall be (~~given~~) for
3 treble the amount of damages claimed or assessed (~~therefor, as the~~
4 ~~case may be~~)).

5 NEW SECTION. Sec. 5. The following acts or parts of acts are each
6 repealed:

7 (1) RCW 79.02.340 (Removal of Christmas trees--Compensation) and
8 2004 c 199 s 208, 2003 c 334 s 504, 1988 c 128 s 66, 1955 c 225 s 1, &
9 1937 c 87 s 1; and

10 (2) RCW 79.02.350 (Intent of RCW 79.02.340) and 2003 c 334 s 505 &
11 1937 c 87 s 2."

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12 On page 1, line 2 of the title, after "trees;" strike the remainder
13 of the title and insert "amending RCW 79.02.300, 79.02.310, 79.02.320,
14 and 64.12.030; and repealing RCW 79.02.340 and 79.02.350."

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