

VETO MESSAGE ON HB 2941-S

April 2, 1998

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 2941 entitled:

"AN ACT Relating to limiting the liability of utilities for efforts undertaken to protect their facilities from adjacent vegetation;"

This bill would address the question of when utilities should or should not be liable for cutting or removing trees and shrubs that belong to another property owner. I understand that utilities need to be able to take reasonable steps to maintain safe and reliable lines and other facilities « which at times may include removing or cutting other peoples' trees and shrubs « without threat of unjustified lawsuits.

However, this bill is poorly drafted; it is overly broad and confusing. For example, under this bill a utility would be immune from liability for cutting trees belonging to a land owner if it got permission from the neighbor « regardless of whether the neighbor had authorization. The Legislature needs to more carefully define "utility" and "utility facilities." I am also concerned about the standards of care this bill would require for a utility to avoid liability and to enjoy limited liability, including avoiding damages for emotional distress.

The Legislature should also revisit the appropriate damages for cutting or removing indigenous trees. I do not believe it is clear how amendments to the timber trespass statute (Chapter 64.12 RCW) affect the operation of our more general trespass damage statute (RCW 4.24.630).

For these reasons, I have vetoed Substitute House Bill No. 2941 in its entirety.

Respectfully submitted,  
Gary Locke  
Governor