
SENATE BILL 5154

State of Washington 56th Legislature 1999 Regular Session

By Senators Hargrove, McCaslin, Goings and Heavey

Read first time 01/14/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to limiting the liability of electric utilities for
2 efforts undertaken to protect their facilities from damage that might
3 be caused by vegetation; amending RCW 4.24.630; and adding a new
4 section to chapter 64.12 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.12 RCW
7 to read as follows:

8 (1) An electric utility is immune from liability under RCW
9 64.12.030, 64.12.040, and 4.24.630 and any claims for general or
10 special damages, including claims of emotional distress, when it cuts
11 or removes vegetation located on or originating from land or property
12 adjacent to electric facilities and that:

13 (a) Has come in contact with or caused damage to electric
14 facilities;

15 (b) Poses a hazard to the general public health, safety, or welfare
16 and the electric utility makes a reasonable effort as soon as
17 practicable to notify and secure agreement from the affected property
18 owner of record, or the resident of the affected property, regarding

1 the disposition of the vegetation that has been cut or removed by the
2 utility; or

3 (c) Poses a potential threat to damage electric facilities and the
4 electric utility notifies and secures agreement from the affected
5 property owner of record for the cutting, removing, and disposition of
6 the vegetation. If the affected property owner fails to respond to a
7 notice from the electric utility within two weeks of the date the
8 electric utility provided notice, the electric utility may secure
9 agreement from a resident of the affected property for the cutting,
10 removing, and disposition of vegetation.

11 (2) A hazard to the general public health, safety, or welfare is
12 deemed to exist when:

13 (a) Vegetation has encroached upon electric facilities by
14 overhanging, leaning towards, or growing within ten feet directly
15 beneath electric facilities that are located above the ground; and

16 (b) Vegetation that is visibly diseased, dead, or dying and that
17 has been determined by a qualified forester or certified arborist
18 employed or retained by or on behalf of an electric utility to be of
19 such proximity to electric facilities as to pose an imminent threat to
20 damage those facilities.

21 (3) A potential threat to damage electric facilities exists when
22 vegetation is of such size, condition, and proximity to electric
23 facilities that it can be reasonably expected to cause damage to
24 electric facilities and, based upon this standard, the vegetation has
25 been determined to pose a potential threat by a qualified forester or
26 certified arborist employed or retained by or on behalf of an electric
27 utility.

28 (4) For the purposes of this section:

29 (a) "Electric facilities" means lines, conduits, ducts, poles,
30 wires, pipes, conductors, cables, cross-arms, receivers, transmitters,
31 transformers, instruments, machines, appliances, instrumentalities,
32 rights of way, and all devices and apparatus used, operated, owned, or
33 controlled by an electric utility, for the purposes of manufacturing,
34 transforming, transmitting, distributing, selling, or furnishing
35 electricity.

36 (b) "Electric utility" means an electrical company, as defined
37 under RCW 80.04.010, a municipal electric utility formed under Title 35
38 RCW, a public utility district formed under Title 54 RCW, an irrigation
39 district formed under chapter 87.03 RCW, a cooperative formed under

1 chapter 23.86 RCW, and a mutual corporation or association formed under
2 chapter 24.06 RCW, that is engaged in the business of distributing
3 electricity in the state.

4 (c) "Rights of way" means any real estate, easements, acquired by
5 title or implied consent, rights of way, franchises, property, and
6 routes used, operated, owned, maintained, or controlled under
7 agreement, written or implied, by an electric utility.

8 (d) "Vegetation" means trees, timber, or shrubs.

9 **Sec. 2.** RCW 4.24.630 and 1994 c 280 s 1 are each amended to read
10 as follows:

11 (1) Every person who goes onto the land of another and who removes
12 timber, crops, minerals, or other similar valuable property from the
13 land, or wrongfully causes waste or injury to the land, or wrongfully
14 injures personal property or improvements to real estate on the land,
15 is liable to the injured party for treble the amount of the damages
16 caused by the removal, waste, or injury. For purposes of this section,
17 a person acts "wrongfully" if the person intentionally and unreasonably
18 commits the act or acts while knowing, or having reason to know, that
19 he or she lacks authorization to so act. Damages recoverable under
20 this section include, but are not limited to, damages for the market
21 value of the property removed or injured, and for injury to the land,
22 including the costs of restoration. In addition, the person is liable
23 for reimbursing the injured party for the party's reasonable costs,
24 including but not limited to investigative costs and reasonable
25 attorneys' fees and other litigation-related costs.

26 (2) This section does not apply in any case where liability for
27 damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, or
28 79.40.070.

29 (3) This section does not apply to an electric utility under
30 section 1 of this act.

31 NEW SECTION. **Sec. 3.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

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