

CERTIFICATION OF ENROLLMENT

SENATE BILL 5108

Chapter 97, Laws of 2001

57th Legislature
2001 Regular Session

SHORT-ROTATION HARDWOOD TREES

EFFECTIVE DATE: 7/22/01

Passed by the Senate March 6, 2001
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 11, 2001
YEAS 89 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CLYDE BALLARD

Speaker of the House of Representatives

Approved April 19, 2001.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5108** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

FILED

April 19, 2001 - 5:13 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5108

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators T. Sheldon, Benton, Snyder, Hargrove, Sheahan, Gardner, Rasmussen and Stevens

Read first time 01/12/2001. Referred to Committee on Agriculture & International Trade.

1 AN ACT Relating to the growing of short-rotation hardwood trees on
2 agricultural land; and amending RCW 84.33.035, 76.09.020, and
3 82.04.213.

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

5 **Sec. 1.** RCW 84.33.035 and 1995 c 165 s 1 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Agricultural methods" means the cultivation of trees that are
10 grown on land prepared by intensive cultivation and tilling, such as
11 irrigating, plowing, or turning over the soil, and on which all
12 unwanted plant growth is controlled continuously for the exclusive
13 purpose of raising trees such as Christmas trees and short-rotation
14 hardwoods.

15 (2) "Composite property tax rate" for a county means the total
16 amount of property taxes levied upon forest lands by all taxing
17 districts in the county other than the state, divided by the total
18 assessed value of all forest land in the county.

1 (3) "Forest land" means forest land which is classified or
2 designated forest land under this chapter.

3 (4) "Harvested" means the time when in the ordinary course of
4 business the quantity of timber by species is first definitely
5 determined. The amount harvested shall be determined by the Scribner
6 Decimal C Scale or other prevalent measuring practice adjusted to
7 arrive at substantially equivalent measurements, as approved by the
8 department of revenue.

9 (5) "Harvester" means every person who from the person's own land
10 or from the land of another under a right or license granted by lease
11 or contract, either directly or by contracting with others for the
12 necessary labor or mechanical services, fells, cuts, or takes timber
13 for sale or for commercial or industrial use: PROVIDED, That whenever
14 the United States or any instrumentality thereof, the state, including
15 its departments and institutions and political subdivisions, or any
16 municipal corporation therein so fells, cuts, or takes timber for sale
17 or for commercial or industrial use, the harvester is the first person
18 other than the United States or any instrumentality thereof, the state,
19 including its departments and institutions and political subdivisions,
20 or any municipal corporation therein, who acquires title to or a
21 possessory interest in such timber. The term "harvester" does not
22 include persons performing under contract the necessary labor or
23 mechanical services for a harvester.

24 (6) "Short-rotation hardwoods" means hardwood trees, such as but
25 not limited to hybrid cottonwoods, cultivated by agricultural methods
26 in growing cycles shorter than (~~ten~~) fifteen years.

27 (7) "Stumpage value of timber" means the appropriate stumpage value
28 shown on tables prepared by the department of revenue under RCW
29 84.33.091, provided that for timber harvested from public land and sold
30 under a competitive bidding process, stumpage value shall mean that
31 actual amount paid to the seller in cash or other consideration.
32 Whenever payment for the stumpage includes considerations other than
33 cash, the value shall be the fair market value of the other
34 consideration, provided that if the other consideration is permanent
35 roads, the value of the roads shall be the appraised value as appraised
36 by the seller.

37 (8) "Timber" means forest trees, standing or down, on privately or
38 publicly owned land, and except as provided in RCW 84.33.170 includes
39 Christmas trees and short-rotation hardwoods.

1 (9) "Timber assessed value" for a county means a value, calculated
2 by the department of revenue before October 1 of each year, equal to
3 the total stumpage value of timber harvested from privately owned land
4 in the county during the most recent four calendar quarters for which
5 the information is available multiplied by a ratio. The numerator of
6 the ratio is the rate of tax imposed by the county under RCW 84.33.051
7 for the year of the calculation. The denominator of the ratio is the
8 composite property tax rate for the county for taxes due in the year of
9 the calculation, expressed as a percentage of assessed value.

10 (10) "Timber assessed value" for a taxing district means the timber
11 assessed value for the county multiplied by a ratio. The numerator of
12 the ratio is the total assessed value of forest land in the taxing
13 district. The denominator is the total assessed value of forest land
14 in the county. As used in this section, "assessed value of forest
15 land" means the assessed value of forest land for taxes due in the year
16 the timber assessed value for the county is calculated.

17 **Sec. 2.** RCW 76.09.020 and 1999 sp.s. c 4 s 301 are each amended to
18 read as follows:

19 For purposes of this chapter:

20 (1) "Adaptive management" means reliance on scientific methods to
21 test the results of actions taken so that the management and related
22 policy can be changed promptly and appropriately.

23 (2) "Appeals board" means the forest practices appeals board
24 created by RCW 76.09.210.

25 (3) "Aquatic resources" includes water quality, salmon, other
26 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
27 identified in the forests and fish report, the Columbia torrent
28 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
29 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
30 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's
31 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
32 their respective habitats.

33 (4) "Commissioner" means the commissioner of public lands.

34 (5) "Contiguous" means land adjoining or touching by common corner
35 or otherwise. Land having common ownership divided by a road or other
36 right of way shall be considered contiguous.

1 (6) "Conversion to a use other than commercial timber operation"
2 means a bona fide conversion to an active use which is incompatible
3 with timber growing and as may be defined by forest practices rules.

4 (7) "Department" means the department of natural resources.

5 (8) "Forest land" means all land which is capable of supporting a
6 merchantable stand of timber and is not being actively used for a use
7 which is incompatible with timber growing.

8 (9) "Forest landowner" means any person in actual control of forest
9 land, whether such control is based either on legal or equitable title,
10 or on any other interest entitling the holder to sell or otherwise
11 dispose of any or all of the timber on such land in any manner:
12 PROVIDED, That any lessee or other person in possession of forest land
13 without legal or equitable title to such land shall be excluded from
14 the definition of "forest landowner" unless such lessee or other person
15 has the right to sell or otherwise dispose of any or all of the timber
16 located on such forest land.

17 (10) "Forest practice" means any activity conducted on or directly
18 pertaining to forest land and relating to growing, harvesting, or
19 processing timber, including but not limited to:

- 20 (a) Road and trail construction;
- 21 (b) Harvesting, final and intermediate;
- 22 (c) Precommercial thinning;
- 23 (d) Reforestation;
- 24 (e) Fertilization;
- 25 (f) Prevention and suppression of diseases and insects;
- 26 (g) Salvage of trees; and
- 27 (h) Brush control.

28 "Forest practice" shall not include preparatory work such as tree
29 marking, surveying and road flagging, and removal or harvesting of
30 incidental vegetation from forest lands such as berries, ferns,
31 greenery, mistletoe, herbs, mushrooms, and other products which cannot
32 normally be expected to result in damage to forest soils, timber, or
33 public resources.

34 (11) "Forest practices rules" means any rules adopted pursuant to
35 RCW 76.09.040.

36 (12) "Forest trees" does not include hardwood trees cultivated by
37 agricultural methods in growing cycles shorter than fifteen years if
38 the trees were planted on land that was not in forest use immediately

1 before the trees were planted and before the land was prepared for
2 planting the trees. "Forest trees" includes Christmas trees.

3 (13) "Forests and fish report" means the forests and fish report to
4 the board dated April 29, 1999.

5 ~~((13))~~ (14) "Application" means the application required pursuant
6 to RCW 76.09.050.

7 ~~((14))~~ (15) "Operator" means any person engaging in forest
8 practices except an employee with wages as his or her sole
9 compensation.

10 ~~((15))~~ (16) "Person" means any individual, partnership, private,
11 public, or municipal corporation, county, the department or other state
12 or local governmental entity, or association of individuals of whatever
13 nature.

14 ~~((16))~~ (17) "Public resources" means water, fish and wildlife,
15 and in addition shall mean capital improvements of the state or its
16 political subdivisions.

17 ~~((17))~~ (18) "Timber" means forest trees, standing or down, of a
18 commercial species, including Christmas trees.

19 ~~((18))~~ (19) "Timber owner" means any person having all or any
20 part of the legal interest in timber. Where such timber is subject to
21 a contract of sale, "timber owner" shall mean the contract purchaser.

22 ~~((19))~~ (20) "Board" means the forest practices board created in
23 RCW 76.09.030.

24 ~~((20))~~ (21) "Unconfined avulsing channel migration zone" means
25 the area within which the active channel of an unconfined avulsing
26 stream is prone to move and where the movement would result in a
27 potential near-term loss of riparian forest adjacent to the stream.
28 Sizeable islands with productive timber may exist within the zone.

29 ~~((21))~~ (22) "Unconfined avulsing stream" means generally fifth
30 order or larger waters that experience abrupt shifts in channel
31 location, creating a complex flood plain characterized by extensive
32 gravel bars, disturbance species of vegetation of variable age,
33 numerous side channels, wall-based channels, oxbow lakes, and wetland
34 complexes. Many of these streams have dikes and levees that may
35 temporarily or permanently restrict channel movement.

36 **Sec. 3.** RCW 82.04.213 and 1993 sp.s. c 25 s 302 are each amended
37 to read as follows:

1 (1) "Agricultural product" means any product of plant cultivation
2 or animal husbandry including, but not limited to: A product of
3 horticulture, grain cultivation, vermiculture, viticulture, or
4 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;
5 short-rotation hardwoods as defined in RCW 84.33.035; turf; or any
6 animal including but not limited to an animal that is a private sector
7 cultured aquatic product as defined in RCW 15.85.020, or a bird, or
8 insect, or the substances obtained from such an animal. "Agricultural
9 product" does not include animals intended to be pets.

10 (2) "Farmer" means any person engaged in the business of growing or
11 producing, upon the person's own lands or upon the lands in which the
12 person has a present right of possession, any agricultural product
13 whatsoever for sale. "Farmer" does not include a person using such
14 products as ingredients in a manufacturing process, or a person growing
15 or producing such products for the person's own consumption. "Farmer"
16 does not include a person selling any animal or substance obtained
17 therefrom in connection with the person's business of operating a
18 stockyard or a slaughter or packing house. "Farmer" does not include
19 any person in respect to the business of taking, cultivating, or
20 raising timber.

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