
**Agriculture & Natural
Resources Committee**

HB 1251

Brief Description: Protecting forest land from exotic forest insects or diseases.

Sponsors: Representatives Eickmeyer, Schoesler, Linville, Sump, Quall, Rockefeller and Haigh; by request of Commissioner of Public Lands.

Brief Summary of Bill

- Provides authority and direction to the Department of Natural Resources to conduct forest health monitoring, prevention, and control operations.
- Provides suggestions to landowners as to how they can help improve forest health.
- Exempts certain forest health operations from submitting a forest practices application.
- Allows the Director of the Department of Agriculture to request an emergency pest control measure declaration from the Governor for pest infestations that seriously threaten the state's environment.

Hearing Date: 2/11/03

Staff: Jason Callahan (786-7117).

Background:

The Department of Natural Resources

The Legislature declared in 1951 that forest insects and forest tree diseases that threaten permanent timber production in Washington are public nuisances (RCW 76.06.010). In response, the Department of Natural Resources (DNR) and the private forest landowners in the state were given specific direction by the Legislature as to how forest health should be protected (RCW Chapter 76.06).

The initial responsibility to protect forest health belongs to the landowner. Forest landowners are required to make every reasonable effort to control or eradicate forest insect pests and diseases that threaten a stand of timber. If a landowner fails in this duty, the DNR may

involve itself in forest health maintenance operations (RCW 76.06.040).

The DNR is required to declare an Infestation Control District for any area of timber lands that is threatened with insect or disease infestations, or that has already become infested. Once an Infestation Control District is established, the DNR must notify all landowners within the district that they are required to control or destroy the pests or disease (RCW 76.06.050).

If the landowner within an Infestation Control District is unable or unwilling to address the infestation, the DNR has the duty to proceed with infestation control and eradication efforts, even if the landowner does not provide consent (RCW 76.06.060). Up to 25 percent of any expenses incurred by the DNR in conducting a pest or disease control operation on private land, that is not otherwise funded, becomes the responsibility of the landowner (RCW 76.06.070).

The Department of Agriculture

In addition to the DNR, the Washington State Department of Agriculture (WSDA) is also authorized to address plant pests and diseases (RCW Chapter 17.24). The Director of the WSDA can ask the Governor to order emergency pest control measures if there is an eminent danger of a plant pest or disease infestation that threatens the agricultural or horticultural industries or that seriously threatens life health, or economic well-being (RCW 17.24.171(1)). If the Governor declares an emergency, the Director of the WSDA may implement emergency measures to prevent, control, or eradicate the identified plant pests or diseases (RCW 17.24.171(3)).

Forest Practice Rules and Forest Health

All pest and disease control efforts occurring on non-tribal or non-federal land are subject to the forest practice rules (RCW Chapter 76.09). The rules include the approval of a forest practices application before any significant forest practice operations are undertaken (RCW 76.09.060).

Summary of Bill:

Monitoring and Prevention

The DNR is authorized to use any funds that should be made available to monitor the health of Washington's non-tribal and non-federal forest lands, provide forest health information and assistance to landowners, promote integrated forest pest management, and conduct cooperative forest health management programs. The DNR must prioritize its assistance in areas where forest health decline has resulted in an increased risk of wildfire, and in areas identified by the DNR as areas of concern.

Forest Health Areas of Concern

The DNR may map the boundaries of any forest land where poor forest health creates a threat of widespread loss of resource values. These areas are designated as "forest health areas of concern". Areas of concern may be identified by threats of insect or disease

outbreak, by a high risk of fire due to overstocking, or by poor tree vigor.

Once establishing an area of concern, the DNR must notify the owners within the area and describe the insect, disease or other forest health problem identified for the area. Notification can occur via personal contact, mail, local media, or cooperative educational programs. The notification must also describe the range of integrated pest management (IPM) methods that are the most likely to be effective in controlling the problem identified for that area.

The area of concern must be dissolved once the DNR determines that insect or disease control efforts are no longer necessary or feasible.

Forest Health Emergencies

The DNR is expressly authorized to contribute resources and expertise to the WSDA in pest control and eradication efforts. However, if the WSDA fails to take action, or if the Commissioner of Public Lands (Commissioner) finds that efforts beyond those under taken by the WSDA are required to control or prevent an immediate danger to native trees, a forest health emergency can be declared by the Commissioner.

Once an emergency is declared, the DNR must map out the area at risk and determine the most appropriate IPM technique to control the outbreak and notify landowners of their intent to conduct control operations. The DNR is authorized to enter into agreements with landowners to accomplish control operations; however, it may proceed with the control of exotic forest insects or diseases without the cooperation of an affected property's owner. If a landowner cooperates, the DNR has the discretionary authority to reimburse the landowner for the actual costs of equipment, labor, and materials used by the DNR to conduct the operation.

A forest health emergency is over when the DNR finds that the exotic forest insect or disease has been controlled and that the imminent threat no longer exists, or when there is no longer a good likelihood of effective control.

Landowner Instructions

Landowners are encouraged to meet their ownership objectives and to avoid contributing to insect or disease outbreaks, or increasing fire risk, by maintaining their forest lands in a healthy and vigorous condition. If a landowner is notified by the DNR that his or her property is within a forest health area of concern, the landowner is encouraged to take appropriate action to prevent the spread of insects or disease outbreaks and to reduce the risk of wildfire spreading to adjacent forest lands.

Exemptions to Forest Practice Applications

Exotic insect and disease control applications carried out by the DNR or the WSDA may go forward without the filing of a forest practices application. To the extent possible, all forest health control operations must notify the DNR and still abide to the forest practice rules relating to road construction and maintenance, timber harvest, forest chemicals application,

and reforestation. The exemption from filing a forest practices application does not exempt the actor from compliance with the clean water act.

Department of Agriculture's Emergency Measures

The basis for which the Director of the WSDA may request the Governor to order emergency pest control measures is expanded to include infestations that seriously threaten the state's environment.

Statutory Repeals

Sections of law that conflicts with this bill, as they relate to forest insect and disease control, are repealed.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.