

HOUSE BILL REPORT

SSB 5144

As Passed House - Amended:

April 16, 2003

Title: An act relating to protecting forest health.

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

Sponsors: By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton and Oke).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/25/03, 4/4/03 [DPA].

Floor Activity:

Passed House - Amended: 4/16/03, 94-3.

**Brief Summary of Substitute Bill
(As Amended by House)**

- Provides authority and direction to the Department of Natural Resources to declare a forest health emergency.
- Exempts certain forest health emergency control operations from some of the requirements of the Forest Practices Act.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 10 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Eickmeyer, Grant, Hunt, McDermott, Orcutt and Quall.

Minority Report: Do not pass. Signed by 3 members: Representatives Holmquist, Assistant Ranking Minority Member; Chandler and Sump.

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. 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.

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.

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.

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. 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.

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. 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. 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.

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. The rules include the approval of a forest practices application before any significant forest practice operations are undertaken.

Summary of Amended Bill:

Forest Health Emergency

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 undertaken 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 integrated pest management technique to control the outbreak and notify landowners of their intent to conduct control operations. The DNR is authorized to enter into agreements with individuals, companies, landowners, tribal entities, and the federal government 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.

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 by the forest practice rules relating to road construction and maintenance, timber harvest, forest chemicals application, and reforestation. Upon notification, the DNR staff must consult with any interested agencies affected, tribes, and the landowner. The exemption from filing a forest practices application does not exempt the actor from compliance with the Clean Water Act.

Specific Diseases

The DNR and the WSDA are directed to coordinate their response efforts in regards to Sudden Oak Death Syndrome. The agencies must also coordinate their efforts with other plant pest agencies and private organizations.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill streamlines the Forest Practices Act in regards to the DNR and the WSDA. It allows the departments to address any exotic forest threats before they become naturalized. It also reduces the amount of paperwork that must be processed before the departments can work together. The current forest health scheme has three statutes that do not work real well together, and this bill closes the gaps left by those statutes.

Testimony Against: None.

Testified: Senator Morton, prime sponsor; and Pat McElroy, Department of Natural Resources.