
HOUSE BILL 1404

State of Washington 59th Legislature 2005 Regular Session

By Representatives B. Sullivan, Hinkle, Kretz, Upthegrove and Buck

Read first time 01/24/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to forest practices; amending RCW 76.09.240; and
2 adding a new section to chapter 36.70A RCW.

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

4 **Sec. 1.** RCW 76.09.240 and 2002 c 121 s 2 are each amended to read
5 as follows:

6 ~~(1) ((By December 31, 2005, each county and each city shall adopt~~
7 ~~ordinances or promulgate regulations setting standards for those Class~~
8 ~~IV forest practices regulated by local government. The regulations~~
9 ~~shall: (a) Establish minimum standards for Class IV forest practices;~~
10 ~~(b) set forth necessary administrative provisions; and (c) establish~~
11 ~~procedures for the collection and administration of forest practices~~
12 ~~and recording fees as set forth in this chapter.~~

13 ~~(2) Class IV forest practices regulations shall be administered and~~
14 ~~enforced by the counties and cities that promulgate them.~~

15 ~~(3) The forest practices board shall continue to promulgate~~
16 ~~regulations and the department shall continue to administer and enforce~~
17 ~~the regulations promulgated by the board in each county and each city~~
18 ~~for all forest practices as provided in this chapter until such time~~
19 ~~as, in the opinion of the department, the county or city has~~

1 ~~promulgated forest practices regulations that meet the requirements as~~
2 ~~set forth in this section and that meet or exceed the standards set~~
3 ~~forth by the board in regulations in effect at the time the local~~
4 ~~regulations are adopted. Regulations promulgated by the county or city~~
5 ~~thereafter shall be reviewed in the usual manner set forth for county~~
6 ~~or city rules or ordinances. Amendments to local ordinances must meet~~
7 ~~or exceed the forest practices rules at the time the local ordinances~~
8 ~~are amended.~~

9 ~~(a) Department review of the initial regulations promulgated by a~~
10 ~~county or city shall take place upon written request by the county or~~
11 ~~city. The department, in consultation with the department of ecology,~~
12 ~~may approve or disapprove the regulations in whole or in part.~~

13 ~~(b) Until January 1, 2006, the department shall provide technical~~
14 ~~assistance to all counties or cities that have adopted forest practices~~
15 ~~regulations acceptable to the department and that have assumed~~
16 ~~regulatory authority over all Class IV forest practices within their~~
17 ~~jurisdiction.~~

18 ~~(c) Decisions by the department approving or disapproving the~~
19 ~~initial regulations promulgated by a county or city may be appealed to~~
20 ~~the forest practices appeals board, which has exclusive jurisdiction to~~
21 ~~review the department's approval or disapproval of regulations~~
22 ~~promulgated by counties and cities.~~

23 ~~(4))~~ On or before December 31, 2007:

24 (a) Counties planning under RCW 36.70A.040, and the cities and
25 towns within those counties, where more than a total of twenty-five
26 Class IV forest practices applications, as defined in RCW 76.09.050(1)
27 Class IV (a) through (d), have been filed with the department between
28 January 1, 2000, and December 31, 2002, shall adopt and enforce
29 ordinances or regulations as provided in subsection (2) of this section
30 for the following:

31 (i) Forest practices classified as Class I, II, III, and IV that
32 are within urban growth areas designated under RCW 36.70A.110, except
33 for forest practices on ownerships of contiguous forest land equal to
34 or greater than twenty acres where the forest landowner provides, to
35 the department and the county, a written statement of intent, signed by
36 the forest landowner, not to convert to a use other than growing
37 commercial timber for ten years. This statement must be accompanied by
38 either:

1 (A) A written forest management plan acceptable to the department;
2 or
3 (B) Documentation that the land is enrolled as forest land of long-
4 term commercial significance under the provisions of chapter 84.33 RCW;
5 and
6 (ii) Forest practices classified as Class IV, outside urban growth
7 areas designated under RCW 36.70A.110, involving either timber harvest
8 or road construction, or both on:
9 (A) Lands platted after January 1, 1960, as provided in chapter
10 58.17 RCW;
11 (B) Lands that have or are being converted to another use; or
12 (C) Lands which, under RCW 76.09.070 as now or hereafter amended,
13 are not to be reforested because of the likelihood of future conversion
14 to urban development.
15 (b) Counties planning under RCW 36.70A.040, and the cities and
16 towns within those counties, not included in (a) of this subsection,
17 may adopt and enforce ordinances or regulations as provided in (a) of
18 this subsection.
19 (c) Counties not planning under RCW 36.70A.040, and the cities and
20 towns within those counties, where more than a total of twenty-five
21 Class IV forest practices applications, as defined in RCW 76.09.050(1)
22 Class IV (a) through (d), have been filed with the department between
23 January 1, 2000, and December 31, 2002, shall adopt and enforce
24 ordinances or regulations as provided in subsection (2) of this section
25 for forest practices classified as Class IV involving either timber
26 harvest or road construction, or both on:
27 (i) Lands platted after January 1, 1960, as provided in chapter
28 58.17 RCW;
29 (ii) Lands that have or are being converted to another use; or
30 (iii) Lands which, under RCW 76.09.070 as now or hereafter amended,
31 are not to be reforested because of the likelihood of future conversion
32 to urban development.
33 (d) Counties not planning under RCW 36.70A.040, and the cities and
34 towns within those counties, not included in (c) of this subsection,
35 may adopt and enforce ordinances or regulations as provided in (c) of
36 this subsection.
37 (2) Before a county, city, or town may regulate forest practices
38 under subsection (1) of this section, it shall ensure that its critical

1 areas and development regulations are in compliance with RCW 36.70A.130
2 and, if applicable, RCW 36.70A.215. The county, city, or town shall
3 notify the department and the department of ecology in writing sixty
4 days prior to adoption of the development regulations required in this
5 section. The transfer of jurisdiction shall not occur until the
6 county, city, or town has notified the department and the department of
7 ecology in writing of the effective date of the regulations.
8 Ordinances and regulations adopted under subsection (1) of this section
9 and this subsection (2) shall include:

10 (a) Provisions that require appropriate approvals for all phases of
11 the conversion of forest lands, including land clearing and grading;
12 and

13 (b) Procedures for the collection and administration of permit and
14 recording fees.

15 (3) Activities regulated by counties, cities, or towns as provided
16 in subsections (1) and (2) of this section shall be administered and
17 enforced by those counties, cities, or towns. The department shall not
18 regulate these activities under this chapter.

19 (4) The board shall continue to adopt rules and the department
20 shall continue to administer and enforce those rules in each county,
21 city, or town for all forest practices as provided in this chapter
22 until such a time as the county, city, or town has updated its
23 development regulations as required by RCW 36.70A.130 and, if
24 applicable, RCW 36.70A.215, and has adopted ordinances or regulations
25 under subsections (1) and (2) of this section.

26 (5) Upon request, the department shall provide technical assistance
27 to all counties, cities, and towns while they are in the process of
28 adopting the regulations required by this section, and after the
29 regulations become effective.

30 (6) For those forest practices over which the board and the
31 department maintain regulatory authority no county, city, municipality,
32 or other local or regional governmental entity shall adopt or enforce
33 any law, ordinance, or regulation pertaining to forest practices,
34 except that to the extent otherwise permitted by law, such entities may
35 exercise any:

36 (a) Land use planning or zoning authority: PROVIDED, That exercise
37 of such authority may regulate forest practices only: (i) Where the
38 application submitted under RCW 76.09.060 as now or hereafter amended

1 indicates that the lands have been or will be converted to a use other
2 than commercial forest product production; or (ii) on lands which have
3 been platted after January 1, 1960, as provided in chapter 58.17 RCW:
4 PROVIDED, That no permit system solely for forest practices shall be
5 allowed; that any additional or more stringent regulations shall not be
6 inconsistent with the forest practices regulations enacted under this
7 chapter; and such local regulations shall not unreasonably prevent
8 timber harvesting;

9 (b) Taxing powers;

10 (c) Regulatory authority with respect to public health; and

11 (d) Authority granted by chapter 90.58 RCW, the "Shoreline
12 Management Act of 1971".

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
14 to read as follows:

15 (1) Each county, city, and town assuming regulation of forest
16 practices as provided in RCW 76.09.240 (1) and (2) shall adopt
17 development regulations that:

18 (a) Protect public resources, as defined in RCW 76.09.020, from
19 material damage or the potential for material damage;

20 (b) Require appropriate approvals for all phases of the conversion
21 of forest lands, including clearing and grading; and

22 (c) Are guided by the planning goals in RCW 36.70A.020 and by the
23 purposes and policies of the forest practices act as set forth in RCW
24 76.09.010.

25 (2) If necessary, each county, city, or town that assumes
26 regulation of forest practices under RCW 76.09.240 shall amend its
27 comprehensive plan to ensure consistency between its comprehensive plan
28 and development regulations.

29 (3) Before a county, city, or town may regulate forest practices
30 under RCW 76.09.240 (1) and (2), it shall update its development
31 regulations as required by RCW 36.70A.130 and, if applicable, RCW
32 36.70A.215. Forest practices regulations adopted under RCW 76.09.240
33 (1) and (2) may be adopted as part of the legislative action taken
34 under RCW 36.70A.130 or 36.70A.215.

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