

# FINAL BILL REPORT

## SSB 6141

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Synopsis as Enacted

**Brief Description:** Regarding forest health.

**Sponsors:** Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Jacobsen and Morton).

**Senate Committee on Natural Resources, Ocean & Recreation**

**Senate Committee on Ways & Means**

**House Committee on Agriculture & Natural Resources**

**House Committee on Appropriations**

**Background:** Current statute defines forest health as a forest sound in ecological function, sustainable, resilient, and resistant to insects, diseases, fire, and other disturbance, and having the capacity to meet landowner objectives.

In 2004, the Legislature created the Forest Health Strategy Work Group (work group) to look at the issue of forest health in Washington and provide recommendations to the Legislature. The work group produced findings, recommendations, and draft legislation modifying Washington's forest health statutes. In 2006, the Legislature reconvened the work group, instructing it to conduct public meetings regarding its legislative recommendations.

According to information from the work group, Washington State contains approximately 21 million acres of forestland. By 2005, over 2.5 million of those forested acres contained elevated levels of tree mortality, defoliation, or foliage disease. The western spruce budworm and bark beetle have caused significant tree damage in the state. The work group cites overcrowded forests as contributing to these elevated forest health and fire risks.

Current forest health provisions place the primary responsibility for forest health on timber landowners. If forest insects or diseases threaten timber stands with destruction, DNR is directed to create an infestation control district. DNR provides notice to timber landowners within the district, who must proceed without delay "to control, destroy and eradicate the said" pests or diseases. If the owner does not or cannot meet these requirements within 30 days, DNR has the duty to proceed with forest treatment activities. Under some circumstances, landowners can be held responsible for a portion of the costs of such activities conducted by DNR.

Current fire hazard statutes state that those who create or allow an extreme fire hazard to exist, which contributes to the spread of a fire, may be held liable for reasonable expenses stemming from the fire. Additionally, if an extreme fire hazard is not reduced after notice is provided, DNR may treat the hazard and recover from the landowner twice the actual cost of the action.

**Summary:** DNR is given the lead role in developing a comprehensive forest health program for the state. Within available funding, DNR must also undertake activities to include: forest health information gathering and dissemination; coordinating forest health monitoring activities; and coordinating with universities and other agencies to provide landowners with technical assistance regarding forest health.

Three Tiered System: A three tiered system is created to address forest health problems that emerge:

- 1) Voluntary landowner measures are intended to protect forests from disturbance agents, such as insects, diseases, and wind storms. Landowners are expressly encouraged to maintain their forestlands in a healthy condition in order to meet their individual objectives, protect public resources, and avoid forest health risks.
- 2) The Commissioner of Public Lands (Commissioner) may issue a forest health hazard warning (warning) when the Commissioner deems such action necessary to manage the development of a threat or address an existing threat to forest health. The Commissioner must specify any recommended landowner actions when issuing a warning.
- 3) The Commissioner may issue a forest health hazard order (order) when the Commissioner deems such action necessary to address a significant threat to forest health. The Commissioner must specify any required landowner actions when issuing an order. Private landowners need not take actions required under tier three, and may not be held liable for failure to take such actions where the private land is impacted by disturbance agents from state or federal land.

Requirements for a Forest Health Warning or Order: A forest health hazard warning or order must specify certain information, including the boundaries of the area affected and the actions landowners should or must take to reduce the hazard.

Prior to issuing a forest health hazard warning or order, the Commissioner must consider findings and recommendations from a technical advisory committee, consult with other interested parties, and conduct a public hearing in a county within the geographic area of concern.

Notice of a forest health hazard warning or order must be given by newspaper, on DNR's website, and by personal service or mail to affected landowners. Landowners subject to a forest health hazard order may apply to DNR for remission or mitigation of the order. Such a landowner may also appeal the order to the Forest Practices Appeals Board.

Landowner Duties and Liability: Landowners who own land subject to a warning must take reasonable measures to reduce the danger of fire spreading where disturbance agents or dead or dying trees are likely to further the spread of fire.

Landowners who own land subject to an order may face liability if disturbance agents or dead or dying trees are likely to further the spread of fire and if the landowner has not taken those actions required by the order. Liability may include fire suppression expenses or double DNR's costs to abate the risk.

Once a fire hazard is created, a presumption is established that a fire hazard exists until DNR gives notice that the hazard has been addressed.

DNR may certify as adequate a forest health management plan, before or in response to a forest health hazard warning or order, if the plan is likely to achieve the desired result and the landowner is following the plan.

Additionally, the existing regulatory provisions that address the control of forest insects and diseases are repealed.

**Votes on Final Passage:**

Senate	49	0
House	94	0

**Effective:** July 22, 2007