

SENATE BILL REPORT

SB 6141

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 28, 2007
Ways & Means, March 5, 2007

Title: An act relating to forest health.

Brief Description: Expanding provisions affecting forest health.

Sponsors: Senators Jacobsen and Morton.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/28/07 [DPS-WM].
Ways & Means: 3/05/07, 3/05/07 [DPS(NROR)].

Brief Summary of Bill

- Designates the Department of Natural Resources (DNR) as the state lead in developing a comprehensive forest health program.
- Creates a three tiered system to address forest health issues:
 - Tier 1 consists of voluntary landowner actions and technical assistance provided by DNR.
 - Tier 2 consists of landowner actions recommended by DNR to manage developing or existing threats to forest health.
 - Tier 3 consists of mandatory landowner actions required by DNR to manage significant threats to forest health.
- Sets requirements for the administration of the forest health program.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 6141 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6141 as recommended by Committee on Natural Resources, Ocean & Recreation be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Kirstan Arestad (786-7708)

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 a work group to look at the issue of forest health in Washington and provide recommendations to the Legislature. The Forest Health Strategy Work Group (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 of Bill: The bill as referred to committee not considered.

SUMMARY OF RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): 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 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, the bill establishes a presumption 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 bill repeals the existing regulatory provisions that address the control of forest insects and diseases.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Natural Resources, Ocean & Recreation): None.

Persons Testifying (Natural Resources, Ocean & Recreation): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Bill has been in progress since 2003. Forest health is a vital part of the triangle with prevention and suppression of forest fire. This bill is a good investment in addressing fire costs. Fire costs in the state has exceeded all expectations. The intensity and size of fires have increased. I request your support because we have a forest health crisis in Washington and the time to take action is now. The bill is supported by three years of leadership and work by DNR and multiple stakeholders. People of Washington will benefit from adoption of this legislation. Healthy forests provide a wide variety of services and it is critical to take action.

Persons Testifying (Ways & Means): PRO: Miguel Perez-Gibson, Audubon Washington; Vicki Christiansen, DNR.