

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1137

Chapter 349, Laws of 2009

61st Legislature
2009 Regular Session

TIMBER TRESPASS--CHRISTMAS TREES

EFFECTIVE DATE: 07/26/09

Passed by the House April 18, 2009
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2009
Yeas 44 Nays 0

BRAD OWEN

President of the Senate

Approved May 6, 2009, 1:40 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1137** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 8, 2009

**Secretary of State
State of Washington**

HOUSE BILL 1137

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington **61st Legislature** **2009 Regular Session**

By Representatives Finn, Blake, Orcutt, Ormsby, McCune, Morrell,
VanDeWege, Sullivan, and Herrera

Read first time 01/14/09. Referred to Committee on Agriculture &
Natural Resources.

1 AN ACT Relating to protecting landowners' investments in Christmas
2 trees; amending RCW 79.02.300, 79.02.310, 79.02.320, and 64.12.030; and
3 repealing RCW 79.02.340 and 79.02.350.

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

5 **Sec. 1.** RCW 79.02.300 and 2004 c 199 s 207 are each amended to
6 read as follows:

7 (1) Every person who, without authorization, uses or occupies
8 public lands, removes any valuable material as defined in RCW 79.02.010
9 from public lands, or causes waste or damage to public lands, or
10 injures publicly owned personal property or publicly owned improvements
11 to real property on public lands, is liable to the state for treble the
12 amount of the damages. However, liability shall be for single damages
13 if the department determines, or the person proves upon trial, that the
14 person, at time of the unauthorized act or acts, did not know, or have
15 reason to know, that he or she lacked authorization. Damages
16 recoverable under this section include, but are not limited to, the
17 market value of the use, occupancy, or things removed, had the use,
18 occupancy, or removal been authorized; and any damages caused by injury
19 to the land, publicly owned personal property or publicly

1 ownedimprovement, including the costs of restoration. In addition, the
2 person is liable for reimbursing the state for its reasonable
3 costs(~~(7)~~) including, but not limited to, its administrative costs,
4 survey costs to the extent they are not included in damages awarded for
5 restoration costs, and its reasonable attorneys' fees and other legal
6 costs.

7 (2) This section does not apply in any case where liability for
8 damages is provided under RCW (~~(64.12.030,)~~) 4.24.630, 64.12.030, or
9 79.02.320(~~(, or 79.02.340)~~).

10 (3) The department is authorized and directed to investigate all
11 trespasses and wastes upon, and damages to, public lands of the state,
12 and to cause prosecutions for, and/or actions for the recovery of the
13 same, to be commenced as (~~(is)~~) provided by law.

14 **Sec. 2.** RCW 79.02.310 and 2003 c 53 s 379 are each amended to read
15 as follows:

16 Every person who willfully commits any trespass upon any public
17 lands of the state and cuts down, destroys, or injures any timber, or
18 any tree, including a Christmas tree as defined in RCW 76.48.020,
19 standing or growing thereon, or takes, or removes, or causes to be
20 taken, or removed, therefrom any wood or timber lying thereon, or
21 maliciously injures or severs anything attached thereto, or the produce
22 thereof, or digs, quarries, mines, takes or removes therefrom any
23 earth, soil, stone, mineral, clay, sand, gravel, or any valuable
24 materials, is guilty of theft under chapter 9A.56 RCW.

25 **Sec. 3.** RCW 79.02.320 and 1927 c 255 s 199 are each amended to
26 read as follows:

27 Every person who shall cut or remove, or cause to be cut or
28 removed, any timber growing or being upon any public lands of the
29 state, including a Christmas tree as defined in RCW 76.48.020, or who
30 shall manufacture the same into logs, bolts, shingles, lumber or other
31 articles of use or commerce, unless expressly authorized so to do by a
32 bill of sale from the state, or by a lease or contract from the state
33 under which he or she holds possession of such lands, or by (~~(the)~~)
34 provisions of law under (~~(and by virtue of)~~) which (~~(such)~~) the bill of
35 sale, lease or contract was issued, shall be liable to the state (~~(in)~~)
36 for treble the value of the timber or other articles (~~(so)~~)

1 cut, removed, or manufactured, to be recovered in a civil action, and
2 shall forfeit to the state all interest in ~~((and to))~~ any article into
3 which ~~((said))~~ the timber is manufactured.

4 **Sec. 4.** RCW 64.12.030 and Code 1881 s 602 are each amended to read
5 as follows:

6 Whenever any person shall cut down, girdle, or otherwise injure, or
7 carry off any tree, including a Christmas tree as defined in RCW
8 76.48.020, timber, or shrub on the land of another person, or on the
9 street or highway in front of any person's house, ~~((village, town or))~~
10 city or town lot, or cultivated grounds, or on the commons or public
11 grounds of any ~~((village, town or))~~ city or town, or on the street or
12 highway in front thereof, without lawful authority, in an action by
13 ~~((such))~~ the person, ~~((village, town or))~~ city, or town against the
14 person committing ~~((such))~~ the trespasses or any of them, ~~((if))~~ any
15 judgment ~~((be given))~~ for the plaintiff ~~((, it))~~ shall be ~~((given))~~ for
16 treble the amount of damages claimed or assessed ~~((therefor, as the~~
17 ~~case may be))~~.

18 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
19 repealed:

20 (1) RCW 79.02.340 (Removal of Christmas trees--Compensation) and
21 2004 c 199 s 208, 2003 c 334 s 504, 1988 c 128 s 66, 1955 c 225 s 1, &
22 1937 c 87 s 1; and

23 (2) RCW 79.02.350 (Intent of RCW 79.02.340) and 2003 c 334 s 505 &
24 1937 c 87 s 2.

Passed by the House April 18, 2009.
Passed by the Senate April 7, 2009.
Approved by the Governor May 6, 2009.
Filed in Office of Secretary of State May 8, 2009.