
**Agriculture & Natural Resources
Committee**

HB 1237

Brief Description: Providing landowners with necessary tools for the protection of their property from forest fires.

Sponsors: Representatives Kretz, Blake, Dent, Lytton, Manweller, Pettigrew, Short, Scott, Buys and Condotta.

Brief Summary of Bill

- Authorizes a landowner or another person with responsibility to access state-owned or managed land in order to construct a fire line or take other preventive measures intended to stop or slow the spread of a fire onto property owned by or under the responsibility of that landowner or other person with responsibility when there is imminent danger of the fire spreading from or across the state-owned or managed land.

Hearing Date: 2/5/15

Staff: Peter Clodfelter (786-7127).

Background:

Fire Threatening Forest Land.

Any fire on or threatening forest land that is burning uncontrolled is a public nuisance. There is a duty on landowners and on people engaged in activity on land who have knowledge of a fire to make every reasonable effort to suppress the fire. That duty applies regardless of the origin or spread of the fire. If a person does not suppress such a fire, the Department of Natural Resources (DNR) is required to summarily suppress the fire. In that circumstance, the landowner or other person that was engaged in activity on the land that gave rise to the duty to suppress the fire may be liable for the cost of the work to suppress the fire. If unpaid, it becomes a lien on the property.

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.

If a fire occurs in a land clearing, right-of-way clearing, or landowner operation, the fire must be fought to the full limit of available employees and equipment. Firefighting must continue with the necessary crews and equipment that is necessary, in the DNR's discretion, to suppress the fire. A fire may not be left without a firefighting crew until the DNR grants authority to leave in writing.

Trespassing on Public Land.

A person may be liable to the state for damages and prosecuted criminally for cutting, removing, or damaging timber from state lands, using or occupying state lands, removing any valuable material from state lands, causing waste or damage to state lands, or for related acts.

Summary of Bill:

A landowner or another person with potential duties or liability may access land owned or managed by the Department of Natural Resources (DNR) or the Washington Department of Fish and Wildlife (WDFW) to construct a fire line or take other preventive measures intended to stop or slow the spread of a fire onto property that is owned by, or under the responsibility of the landowner or other person with potential duties or liability. Accessing state-owned or managed land for that purpose is subject to the following requirements:

- The state-owned or managed land must be adjacent to or reasonably close to the land to which the duty or liability attaches;
- There is a reasonable basis to believe that local fire conditions are creating an emergency and that there is imminent danger of a fire spreading from or across the state-owned or managed land being accessed;
- There is a reasonable basis to believe that constructing a fire line or taking other preventive measures will stop or slow the spread of a fire from or across the state-owned or managed land being accessed; and
- The DNR or the WDFW—whichever is appropriate—must be given notice of the intent to enter the state-owned or managed land.

Any authority to access state-owned or managed land under these circumstances is limited to the minimum necessary activities reasonably required to stop or slow the spread of the fire. A person accessing state-owned or managed land under these circumstances is not authorized to materially benefit from that access or to retain any valuable materials that may be collected or harvested while on the land.

No civil liability may be imposed on the state for any direct or proximate adverse impacts resulting from the access to state-owned or managed land except upon proof of gross negligence or willful or wanton misconduct by the DNR or the WDFW.

Appropriation: None.

Fiscal Note: Not requested.

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