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**SENATE BILL 5305**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Van De Wege, Warnick, McCoy, Takko, Short, Sheldon, and Nguyen

AN ACT Relating to electric utility wildland fire prevention; and adding new sections to chapter 76.04 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

(1) The commissioner shall convene a utility wildland fire prevention task force with electrical power distribution utilities by July 1, 2019, and no less than quarterly thereafter until December 1, 2020. The duties of the task force are to advise the department on issues including, but not limited to:

(a) Developing, for consideration by the department and individual electric utilities, a model agreement for managing danger trees and other vegetation that pose a risk of wildland fire and associated utility liability due to the proximity to electrical transmission wires and other utility equipment;

(b) Developing communication protocols and educational exchanges between the department and electric utilities for identifying and addressing issues relating to utility infrastructure to reduce the risks of wildland fires;

(c) Developing protocols, including thresholds, for implementing the relevant provisions of RCW 76.04.015 when the department's investigation involves electric utility infrastructure or potential electric utility liability;

(d) Creating rosters of certified wildland fire investigation firms or persons and third-party qualified utility operations personnel who may be called upon by the parties as appropriate; and

(e) Other issues brought forward by task force members.

(2) In consultation with the task force created in subsection (1) of this section, the department must:

(a) Make available the form of communication protocols and educational exchanges between the department and electric utilities;

(b) With the assistance of the task force, distribute a voluntary model danger tree management agreement to utilities for their consideration for execution with the department;

(c) Publish the protocols and thresholds described in subsection (1)(c) of this section;

(d) Issue a roster of third-party certified wildland fire investigators and qualified utility personnel that may assist the department or utility in understanding and reducing risks and liabilities from wildland fire. The department must update the roster of third-party certified wildland fire investigators and qualified utility personnel no less than every four years.

(3) The department must submit, in compliance with RCW 43.01.036, a preliminary report to the legislature by December 1, 2019, and a final report to the legislature by December 1, 2020, on the results of tasks identified in subsections (1) and (2) of this section and identification of legislation, if any, necessary to implement the recommendations of the task force.

(4) The commissioner or the commissioner's designee must chair the task force created in subsection (1) of this section and must appoint task force members. Task force membership should include:

(a) Entities providing retail electric service, including:

(i) One person representing each investor-owned utility;

(ii) Two persons representing municipal utilities;

(iii) Two persons representing public utility districts;

(iv) Two persons representing rural electric cooperatives; and

(b) Other persons with expertise in wildland fire risk reduction and prevention.

(5) The commissioner or the commissioner's designee shall convene the initial meeting of the task force.

(6) Participation on the task force created in subsection (1) of this section is strictly voluntary and without compensation.

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

In any action against an electric utility or its contractor for wildland fire damage to forestland or forested lands, or fire response costs to the department arising from or relating to generation, transmission, and distribution systems, the plaintiff in order to prevail is required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise ordinary care consistent with the practical operation of the utility, to prevent such damage, and that as a proximate result of the failure the plaintiff suffered damages.

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