
HOUSE BILL 1509

State of Washington

64th Legislature

2015 Regular Session

By Representatives Kretz, Blake, Reykdal, and Condotta

Read first time 01/21/15. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to giving priority selection to forest fire
2 suppression resource contractors that are located geographically
3 close to fire suppression activities; amending RCW 76.04.015,
4 76.04.105, and 76.04.155; and adding a new section to chapter 76.04
5 RCW.

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

7 **Sec. 1.** RCW 76.04.015 and 2012 c 38 s 1 are each amended to read
8 as follows:

9 (1) The department may, at its discretion, appoint trained
10 personnel possessing the necessary qualifications to carry out the
11 duties and supporting functions of the department and may determine
12 their respective salaries.

13 (2) The department shall have direct charge of and supervision of
14 all matters pertaining to the forest fire service of the state.

15 (3) The department shall:

16 (a) Enforce all laws within this chapter;

17 (b) Be empowered to take charge of and direct the work of
18 suppressing forest fires consistent with section 2 of this act;

19 (c)(i) Investigate the origin and cause of all forest fires to
20 determine whether either a criminal act or negligence by any person,
21 firm, or corporation caused the starting, spreading, or existence of

1 the fire. In conducting investigations, the department shall work
2 cooperatively, to the extent possible, with utilities, property
3 owners, and other interested parties to identify and preserve
4 evidence. Except as provided otherwise in this subsection, the
5 department in conducting investigations is authorized, without court
6 order, to take possession or control of relevant evidence found in
7 plain view and belonging to any person, firm, or corporation. To the
8 extent possible, the department shall notify the person, firm, or
9 corporation of its intent to take possession or control of the
10 evidence. The person, firm, or corporation shall be afforded
11 reasonable opportunity to view the evidence and, before the
12 department takes possession or control of the evidence, also shall be
13 afforded reasonable opportunity to examine, document, and photograph
14 it. If the person, firm, or corporation objects in writing to the
15 department's taking possession or control of the evidence, the
16 department must either return the evidence within seven days after
17 the day on which the department is provided with the written
18 objections or obtain a court order authorizing the continued
19 possession or control.

20 (ii) Absent a court order authorizing otherwise, the department
21 may not take possession or control of evidence over the objection of
22 the owner of the evidence if the evidence is used by the owner in
23 conducting a business or in providing an electric utility service and
24 the department's taking possession or control of the evidence would
25 substantially and materially interfere with the operation of the
26 business or provision of electric utility service.

27 (iii) Absent a court order authorizing otherwise, the department
28 may not take possession or control of evidence over the objection of
29 an electric utility when the evidence is not owned by the utility but
30 has caused damage to property owned by the utility. However, this
31 subsection (3)(c)(iii) does not apply if the department has notified
32 the utility of its intent to take possession or control of the
33 evidence and provided the utility with reasonable time to examine,
34 document, and photograph the evidence.

35 (iv) Only personnel qualified to work on electrical equipment may
36 take possession or control of evidence owned or controlled by an
37 electric utility;

38 (d) Furnish notices or information to the public calling
39 attention to forest fire dangers and the penalties for violation of
40 this chapter;

1 (e) Be familiar with all timbered and cut-over areas of the
2 state; and

3 (f) Regulate and control the official actions of its employees,
4 the wardens, and the rangers.

5 (4) The department may:

6 (a) Authorize all needful and proper expenditures for forest
7 protection;

8 (b) Adopt rules consistent with this section for the prevention,
9 control, and suppression of forest fires as it considers necessary
10 including but not limited to: Fire equipment and materials; use of
11 personnel; and fire prevention standards and operating conditions
12 including a provision for reducing these conditions where justified
13 by local factors such as location and weather;

14 (c) Remove at will the commission of any ranger or suspend the
15 authority of any warden;

16 (d) Inquire into:

17 (i) The extent, kind, value, and condition of all timber lands
18 within the state;

19 (ii) The extent to which timber lands are being destroyed by fire
20 and the damage thereon;

21 (e) Provide fire detection, prevention, presuppression, or
22 suppression services on nonforested public lands managed by the
23 department or another state agency, but only to the extent that
24 providing these services does not interfere with or detract from the
25 obligations set forth in subsection (3) of this section. If the
26 department provides fire detection, prevention, presuppression, or
27 suppression services on nonforested public lands managed by another
28 state agency, the department must be fully reimbursed for the work
29 through a cooperative agreement as provided for in RCW 76.04.135(1).

30 (5) Any rules adopted under this section for the suppression of
31 forest fires must include a mechanism by which a local fire
32 mobilization radio frequency, consistent with RCW 43.43.963, is
33 identified and made available during the initial response to any
34 forest fire that crosses jurisdictional lines so that all responders
35 have access to communications during the response. Different initial
36 response frequencies may be identified and used as appropriate in
37 different geographic response areas. If the fire radio communication
38 needs escalate beyond the capability of the identified local radio
39 frequency, the use of other available designated interoperability
40 radio frequencies may be used.

1 (6) When the department considers it to be in the best interest
2 of the state, it may cooperate with any agency of another state, the
3 United States or any agency thereof, the Dominion of Canada or any
4 agency or province thereof, and any county, town, corporation,
5 individual, or Indian tribe within the state of Washington in forest
6 firefighting and patrol.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04
8 RCW to read as follows:

9 (1)(a) In implementing the authority to direct the work of forest
10 fire suppression in RCW 76.04.015, the department must give first
11 priority to fire suppression resource contractors that are located
12 geographically closer to the actual fire suppression activities, and
13 thereby capable of responding sooner, over similarly capable fire
14 suppression resource contractors located geographically further from
15 the fire suppression activities.

16 (b) The selection of fire suppression resources based on
17 geographic location and response speed capability must be given
18 priority over:

19 (i) Whether the contractor is a public or private resource or a
20 warden appointed under RCW 76.04.035; and

21 (ii) Except in instances of significant price disparity, the
22 comparable costs of the possible available resources. Comparable
23 costs may only be considered in resource prioritization if the total
24 cost of the more geographically distant resource is anticipated to be
25 less than the total cost of the geographically closer resource
26 considering the added total fire suppression cost resulting from the
27 delay in resource delivery incurred by selecting the more
28 geographically distant resource.

29 (2) The department must take administrative steps prior to the
30 actual commencement of fire suppression activities to ensure the
31 efficient implementation of this section. These steps may include:

32 (a) Outreach and training to the various possible fire resource
33 dispatch operations;

34 (b) The creation of memorandums of understanding or other
35 agreements intended to identify and preemptively negotiate with local
36 fire suppression resource contractors in the various fire prone
37 communities of the state;

38 (c) The creation of formal working relationships with county
39 governments that allows a role for a county to liaison between the

1 department and the available and preemptively identified fire
2 suppression resource contractors based in the county; and

3 (d) Any other preemptive, administrative action deemed beneficial
4 by the department in the implementation of this section.

5 **Sec. 3.** RCW 76.04.105 and 1986 c 100 s 11 are each amended to
6 read as follows:

7 (1) The department may, consistent with the provisions of this
8 chapter, enter into contracts and undertakings with private
9 corporations for the protection and development of the forest lands
10 within the state((, subject to the provisions of this chapter)).

11 (2) During an active fire suppression response, the department
12 must select private contractors consistent with the prioritization
13 requirements provided in section 2 of this act.

14 **Sec. 4.** RCW 76.04.155 and 1986 c 100 s 16 are each amended to
15 read as follows:

16 (1) The department may employ a sufficient number of persons to
17 extinguish or prevent the spreading of any fire that may be in danger
18 of damaging or destroying any timber or other property on department
19 protected lands. The department may provide needed tools and supplies
20 and may provide transportation when necessary for persons so
21 employed.

22 (2) Every person so employed is entitled to compensation at a
23 rate to be fixed by the department. The department shall, upon
24 request, show the person the number of hours worked by that person
25 and the rate established for payment. After approval of the
26 department, that person is entitled to receive payment from the
27 state.

28 (3) When appropriate, the department must select persons to
29 employ in a manner consistent with the prioritization requirements
30 provided in section 2 of this act.

31 (4) It is unlawful to fail to render assistance when called upon
32 by the department to aid in guarding or extinguishing any fire.

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