

CHAPTER 58.

[H. B. 112.]

FOREST PROTECTION FROM FIRES.

AN ACT relating to forest products, forest protection and the payment of forest protection assessments; prescribing penalties; amending sections 76.04.010, 76.04.150, 76.04.230, 76.04.250, 76.04.260, 76.04.270, 76.04.320, 76.04.360, and 76.04.380, R.C.W.; repealing section 76.04.330, R.C.W., and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Amendment. SECTION 1. Section 76.04.010, R.C.W., as derived in part from section 6, chapter 105, Laws of 1917, is amended to read as follows:

Definitions. As used in this chapter:

"Director." "Director" means the director of conservation and development;

"Supervisor." "Supervisor" means the supervisor of forestry;

"Forest fire service." "Forest fire service" includes all wardens, rangers, and other help employed especially for preventing or fighting forest fires;

"Forest land." "Forest land" means any land which has enough timber, standing or down, or inflammable material, to constitute in the judgment of the director a fire menace to life or property: *Provided*, That sagebrush and grass areas east of the summit of the Cascade Mountains are not included unless such areas are adjacent to or intermingled with areas supporting tree growth;

"Forest material." "Forest material" means forest slashing, chopping, woodland, or brushland.

[R.C.W. 76.04.010 is derived from R.R.S. §§ 5781, 5784 (part defining "forest fire service") and 5809.]

Amendment. SEC. 2. Section 76.04.150, R.C.W., as derived from section 1, chapter 11, Laws of 1945, is amended to read as follows:

Burning inflammable material. No one shall burn any inflammable material within any county in this state in which there is a warden or ranger during the period beginning the

fifteenth day of February, and ending on the fifteenth day of October in each year, unless a different date for such beginning and ending is fixed by proclamation of the governor, without first obtaining permission in writing from the supervisor, or a warden, or ranger, and afterwards complying with the terms of said permit. However, if such fire is contained in a suitable device sufficient, in the opinion of the supervisor to prevent the fire from spreading, said written permission will not be necessary. A person violating this section shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars or be imprisoned in the county jail not exceeding thirty days. Permission for burning shall be given only upon compliance with such rules and regulations as the director shall prescribe, which shall be only such as the director deems necessary for the protection of life or property.

Permit.

Penalty.

Rules and regulations of director.

The supervisor, any of his assistants, any warden or ranger, may refuse, revoke, or postpone the use of permits to burn when such act is clearly necessary for the safety of adjacent property.

Revocation of permits.

[Am. Rem. Supp. 1945, § 5788.]

SEC. 3. Section 76.04.230, R.C.W., as derived from section 1, chapter 102, Laws of 1945, is amended to read as follows:

Amendment.

When any fire hazard exists, or has been created by any logging or clearing operations, and whether the supervisor has declared the same to be a fire hazard or not, and whether or not an effort has been made to remove or abate such fire hazard, an application may be made to the supervisor for a certificate of clearance.

Fire hazard.

Certificate of clearance.

As soon as practicable after the receipt of such written request the supervisor shall cause the area to be carefully inspected and if it is found that the unused material and debris has been properly disposed of or the fire hazard abated, through deterioration or utilization, the supervisor shall issue a

Supervisor to inspect.

Certificate
of clearance.

certificate of clearance in duplicate, one copy to be delivered to the applicant and one copy to be retained in the records of his office. Each such certificate of clearance shall describe with reasonable accuracy the slashing, chopping or other area on which the unused material or other debris or fire hazard has been satisfactorily disposed of or the fire hazard abated through deterioration or utilization, by subdivision, section, township, and range, shall give the approximate acreage of the area to which the certificate applies, shall name the person who created such slashing, chopping, unused material, or fire hazard, if known, and name the person by whom the disposal or abatement was done, shall give the date on which the area was inspected and the name of the person making the inspection, and shall certify that in the opinion of the inspector such unused forest material or debris has been properly disposed of or through deterioration or utilization the fire hazard abated. Such certificate of clearance shall be issued for any fraction or part of the area inspected when the inspector finds that only such fraction or part meets the requirements of satisfactory and legal disposition of such unused material or debris and of the abatement of such fire hazard.

Certificate
covering
fraction of
area.

Where
burning
would be
detrimental.

Whenever the supervisor determines that the burning of any area will result in the destruction of second growth or will be detrimental to the growth of a new forest crop, or that burning such area will create a greater fire hazard than already exists, he may issue a certificate of clearance therefor: *Provided*, That the owner and/or operator will still be responsible for the costs of fire fighting made necessary by said fire hazard and the supervisor will have the right to require extra protection to be given the area by the owner and/or operator if the hazard warrants it: *Provided further*, That should the owner elect not to continue to be responsible for fire fight-

Owner's
or operator's
responsibility
for
fire fighting.

ing costs, he may in lieu thereof request the supervisor to be relieved of this responsibility and if agreeable with the supervisor, contract to pay to the division of forestry, or an organized forest protection agency approved by the supervisor a sum to be fixed by the supervisor.

Contract for fire protection.

All certificates of clearance shall be conclusive evidence of the satisfactory and legal disposition and abatement of the unused material and debris and the fire hazard created thereby to the extent in such certificate set forth; but any such certificate may be cancelled or set aside, upon due notice served in writing by the supervisor for fraud or collusion in the procuring or issuance thereof, or in the event of non-compliance with any provision or condition therein.

Certificates conclusive.

Cancellation; grounds.

[Am. Rem. Supp. 1945, § 5792-1.]

SEC. 4. Section 76.04.250, R.C.W., as derived from section 14, chapter 125, Laws of 1911; section 6, chapter 184, Laws of 1923; sections 1, 2 and 3, chapter 152, Laws of 1937; and section 1, chapter 63, Laws of 1941, is amended to read as follows:

Amendment.

It shall be unlawful for anyone to operate within one-eighth mile of any forest land between the fifteenth day of April and the fifteenth day of October, which period shall be designated as the closed season unless the designated season is extended by the supervisor due to dangerous fire conditions:

Certain operations declared unlawful.

(1) Any woods operation or mill using spark-emitting or electric engines unless provided with the following fire tools, or the serviceable equivalent thereof, at each landing, and/or yarding tree or mill:

Conditions of operation; spark-emitting or electric engines.

(a) For operations employing more than five men:

Five men or more.

To be kept in a sealed tool box: Three axes, six shovels and six adze hoes;

Equipment required.

To be kept adjacent to the tool box: Two bucking saws with handles, and one five-gallon pump can filled with water;

Five men
or less.
Equipment
required.

(b) For operations employing five men or less:

To be kept in a sealed tool box: Two axes, three shovels, and three adze hoes;

To be kept adjacent to the tool box: One bucking saw with handles, one hundred gallons of water and two buckets.

Yarding,
skidding or
loading
engine.

(2) Any gasoline, diesel, or electric yarding, skidding, or loading engine unless:

Equipment
required.

(a) Equipped with two chemical fire extinguishers of not less than one and one-half quart capacity;

(b) Exhaust is turned up perpendicular and is clear of all obstructions or is equipped with an adequate spark arrestor.

Tractor.

(3) Any tractor unless:

Equipment
required.

(a) Equipped with one chemical fire extinguisher of not less than one quart capacity;

(b) It has exhaust turned up perpendicular or is equipped with an adequate spark arrestor.

Truck haul-
ing forest
products.

(4) Any truck hauling forest products from any forest area unless:

Equipment
required.

(a) Equipped with a chemical fire extinguisher of at least one quart capacity;

(b) Equipped with one axe;

(c) Equipped with one shovel;

(d) Exhaust is turned up perpendicular or equipped with adequate spark arrestor or muffler.

Portable
power saw.

(5) Any portable power saw unless the power saw operators keep in their immediate possession, a chemical fire extinguisher of at least eight ounce capacity, or a serviceable shovel.

Other
gasoline or
diesel
engines.

(6) Any gasoline or diesel engine used in a mill or for uses not specifically mentioned above unless:

Equipment
required.

(a) Equipped with chemical fire extinguisher of at least one quart capacity;

(b) Exhaust is pointed up perpendicular and is

clear of all obstructions or is equipped with an adequate spark arrester;

(c) One hundred gallons of water and two buckets.

[Am. Rem. Supp. 1941, § 5794 (part).]

[Rem. Supp. 1941, § 5794 has been divided and codified as R.C.W. §§ 76.04.250, 76.04.260 and 76.04.270.]

SEC. 5. Section 76.04.260, R.C.W., as derived from section 14, chapter 125, Laws of 1911; section 6, chapter 184, Laws of 1923; sections 1, 2 and 3, chapter 152, Laws of 1937; and section 1, chapter 63, Laws of 1941, is amended to read as follows:

Amendment.

It shall be unlawful for anyone to operate within one-eighth mile of any forest land between the fifteenth day of April and the fifteenth day of October, which period shall be designated as the closed season unless the designated season is extended by the supervisor due to dangerous fire conditions:

Certain operations declared unlawful.

(1) Any spark-emitting railroad logging locomotive unless:

Conditions of operation; spark-emitting railroad logging locomotive.

(a) Equipped with a safe and suitable device for arresting sparks;

(b) Equipped with a suitable power pump with a capacity of not less than twenty gallons per minute at pressures not less than forty pounds per square inch;

Equipment required.

(c) Equipped with three hundred feet of hose not less than one inch in diameter equipped with a standard nozzle;

(d) Equipped with all the complement of hand tools listed under section 1(a) of section 76.04.250, kept in a sealed tool box on such locomotive ready for instant use;

(e) Equipped with a sprinkler system which can be capable of wetting the tracks and at least two feet on either side of each rail. Such sprinkler system shall be manually controlled from the cab. The water supply tank for such sprinkler shall be capable of carrying an adequate supply of water in direct

relation to the mileage of track covered and the available water supply;

Follow-up patrol.

(f) During the closed season it is followed by a speeder or other patrol. Such patrol shall be equipped with two shovels, one axe, and one five-gallon pump can filled with water. When a logging train operates on a common carrier track the patrol will be regulated under laws pertaining to common carrier railroads.

Common carrier railroad trains; conditions of operation.

(2) Any common carrier railroad trains operating through forest lands unless:

(a) Such trains are followed by a speeder patrol at such times and in such places as the supervisor may designate, each patrol to be equipped with a five gallon fire extinguisher, two shovels and one axe. In case a railroad company fails to provide patrol as required, the supervisor is hereby authorized to employ patrolmen for such purpose and the railroad company concerned shall be liable for the expense of the same to be collected in a civil suit brought by the state against said railroad company;

(b) At the request of the supervisor, such common carrier maintain pumping equipment and fire fighting tools specified by the supervisor but not to exceed those required of logging locomotives.

Steam logging engines or boilers.

(3) Any steam logging engine or boiler unless:

(a) Being equipped with and using a safe and suitable device for arresting sparks;

Equipment required.

(b) Equipped with a suitable power pump with a capacity of not less than twenty gallons per minute at pressures of not less than forty pounds per square inch;

(c) Equipped with three hundred feet of hose not less than one inch in diameter equipped with a standard nozzle.

Locomotives, engines and boilers; ash pan and fire box devices.

(4) Any railroad locomotive, logging locomotive, logging or other engine or boiler unless equipped with an adequate device to prevent the escape of fire or live coals or other burning substance from all ash

pans, and all fire boxes, except when ash pans or fire boxes are being cleaned when not in motion. Any donkey boiler, when equipped to operate without the use of exhaust steam within the stack, and without any artificial means of creating a forced draught, shall not require a spark arrestor.

[Am. Rem. Supp. 1941, § 5794 (part); see note to sec. 4, *supra*.]

[R.C.W. 76.04.250 is sec. 4, *supra*, this chapter.]

SEC. 6. Section 76.04.270, R.C.W., as derived from section 3, chapter 152, Laws of 1937, is amended to read as follows: Amendment.

Every person violating the provisions of sections 76.04.250 and 76.04.260 shall upon conviction be punished by a fine of not less than twenty-five dollars nor more than seventy-five dollars and the judgment of the court, in case of conviction, shall prohibit such person from operating a train, railroad locomotive, logging locomotive, or other engine, power equipment or boiler until the requirements of such sections have been complied with. Penalties.

[Am. Rem. Supp. 1941, § 5794 (part); see note to sec. 4, *supra*.]

[R.C.W. §§ 76.04.250 and 76.04.260 are secs. 4 and 5 *supra*, this chapter.]

SEC. 7. Section 76.04.320, R.C.W., as derived from section 8, chapter 184, Laws of 1923, is amended to read as follows: Amendment.

Every one operating a spark-emitting or electric engine, within one-eighth mile of forest land, for the logging of timber or the clearing of land of tree stumps, or other wood material, or the processing of wood material, shall, during the closed season: Spark-emitting or electric engines, conditions of operation.

(1) Maintain a watchman at the point where the spark-emitting or electric engine is located, the watchman to be on duty for at least two hours following every time the spark-emitting or electric engine ceases operations; Watchman.

(2) Cut down all snags, stubs, and dead trees over fifteen feet in height within a radius of one hundred fifty feet, and clear the ground of all in- Clearing.

flammable debris within a radius of thirty-five feet from each spark-emitting or electric engine.

[Am. R.R.S. § 5797.]

Amendment. SEC. 8. Section 76.04.360, R.C.W., as derived from section 1, chapter 43, Laws of 1925, is amended to read as follows:

Director may provide protection where owner does not.

If any owner of forest land neglects or fails to provide adequate fire protection therefor as required by the preceding section, the director, through the supervisor, shall provide such protection therefor at

Charge.

a cost not to exceed seven cents an acre per year on lands west of the summit of the Cascade Mountains and five cents per acre per year on lands east of the summit of the Cascade Mountains and for that purpose may divide the forest lands of the state, or any part thereof, into districts, for patrol and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Such cost must be justified by a showing of budgets on demand of twenty-five owners of forest land in the county concerned at public hearing. Any amounts paid or contracted to be paid by the supervisor for this purpose from any

Administration.

Lien.

funds at his disposal shall be a lien upon the property patrolled and protected, and unless reimbursed by the owner within ten days after October first of the year in which they were incurred, on which date the supervisor shall be prepared to make statement thereof upon request to any forest owner whose own protection has not been previously approved by him as adequate, shall be reported by the supervisor to the assessor of the county in which the property is situated who shall extend the amounts upon the tax rolls covering the property, and the amounts shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that the next general state and county taxes on the same property are collected, except that er-

Assessment on tax roll.

rors in assessment may be corrected at any time by the supervisor certifying them to the treasurer of the county in which the land involved is situated. Upon the collection of such assessments the county treasurer shall transmit them to the supervisor to be applied against expenses incurred in carrying out the provisions of this section.

Use of receipts.

The supervisor shall include in the assessment a sum not to exceed one-half of one cent per acre, to cover the necessary and reasonable cost of office and clerical work incurred in the enforcement of these provisions. He may also expend any sums collected from owners of forest lands or received from any other source for necessary office and clerical expense in connection with the enforcement of section 76.04.370.

Office and clerical expense.

When land against which fire patrol assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment, and the county treasurer in case the proceeds of sale exceed the amount of the delinquent tax judgment shall forthwith remit to the supervisor the amount of the outstanding patrol assessments.

State's prior lien.

The supervisor shall furnish a good and sufficient surety company bond running to the state, in a sum as great as the probable amount of money annually coming into his hands under the provisions of this chapter, conditioned for the faithful performance of his duties and for a faithful accounting for all sums received and expended thereunder, which bond shall be approved by the attorney general.

Supervisor's official bond.

Attorney general to approve bond.

[Am. R.R.S. § 5805.]

[R.C.W. 76.04.370 is Rem. Supp. § 5807.]

SEC. 9. Section 76.04.380, R.C.W., as derived from section 1, chapter 99, Laws of 1945, is amended to read as follows:

Amendment.

Uncontrolled fire a public nuisance.

Any fire on any forest land burning uncontrolled and without proper action being taken to prevent its spread, notwithstanding the origin of such fire, is a public nuisance by reason of its menace to life and

Responsibility of owner or possessor.

property. The owner, operator, or person in possession of land, on which a fire exists, or from which it may have spread, notwithstanding the origin or subsequent spread thereof on his own or other lands, shall make every reasonable effort to control and extinguish such fire immediately after receiving written notice to do so from the supervisor, or a warden or ranger; and if such owner, operator, or person in possession refuses, neglects, or fails to do so, the supervisor or any fire warden or forest ranger shall summarily abate the nuisance thus constituted by controlling or extinguishing the fire and the cost thereof may be recovered from such owner, operator, or person in possession and if the work is performed on the property of the offender, shall also constitute a lien upon the property or chattels under his ownership. Such lien may be filed by the supervisor in the office of the county auditor and foreclosed in the manner provided by law for the foreclosure of mechanics' liens. The prosecuting attorney shall bring the action to recover the cost or foreclose the lien, upon the request of the supervisor.

Summary abatement by public official.

Lien.

Action by prosecuting attorney.

Payment of assessment; effect of.

The payment of forest patrol assessment on the land shall be interpreted as a reasonable effort in suppressing and extinguishing any fire on the land except when the fire started on that land as a result of owner/operator negligence and except when extra debris is present as described under laws pertaining to slash responsibility.

Fire in a logging operation.

When a fire occurs in a logging operation it shall be fought to the full limit of available employees, and such fire fighting shall be continued with the necessary crews in such numbers as are, in the opinion of the supervisor or his authorized deputies, sufficient to bring the fire to a patrol basis, and the

fire shall not be left without a fire fighting crew or fire patrol until authority so to do has been granted in writing by the supervisor, or his authorized deputies.

[Am. Rem. Supp. 1945, § 5806.]

SEC. 10. Section 76.04.330, R.C.W., as derived from section 18, chapter 125, Laws of 1911, is repealed.

Repealing clause.

[Rep. R.R.S. 5798.]

SEC. 11. If any section, subdivision, sentence or clause in this act shall be held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the act.

Partial invalidity.

SEC. 12. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Emergency.

Passed the House February 5, 1951.

Passed the Senate March 3, 1951.

Approved by the Governor March 13, 1951.

CHAPTER 59.

[H. B. 151.]

CONVEYANCE OF STATE LANDS.

AN ACT authorizing and directing a conveyance of certain real estate to Lenore Barthen, and to Frank T. Sager.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The governor is hereby authorized and directed to execute on behalf of the state of Washington and the secretary of state to attest, a quit claim deed, conveying to Lenore Barthen the following described real property in Grays Harbor County which was formerly owned by Lincoln Merrill and Sylvia Merrill, her father and mother now deceased, but which was conveyed by them to the

Governor to execute deed.

Lenore Barthen.