

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2925**

64th Legislature  
2016 Regular Session

Passed by the House February 17, 2016  
Yeas 97 Nays 1

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**Speaker of the House of Representatives**

Passed by the Senate March 1, 2016  
Yeas 47 Nays 0

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**President of the Senate**

Approved

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**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 **ENGROSSED SUBSTITUTE HOUSE BILL 2925** as passed by House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 2925

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Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2016 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Dent, Blake, McCabe, Schmick, Chandler, Short, Griffey, Johnson, Dye, Haler, and Springer)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to accessing land during a fire suppression  
2 response for the purpose of protecting livestock from a wildland  
3 fire; amending RCW 76.04.015 and 79.13.060; and adding a new section  
4 to chapter 76.04 RCW.

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

6 **Sec. 1.** RCW 76.04.015 and 2015 c 182 s 5 are each amended to  
7 read as follows:

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

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

14 (3) The department shall:

15 (a) Enforce all laws within this chapter;

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

18 (c)(i) Investigate the origin and cause of all forest fires to  
19 determine whether either a criminal act or negligence by any person,  
20 firm, or corporation caused the starting, spreading, or existence of  
21 the fire. In conducting investigations, the department shall work

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

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

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

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

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

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

3 (f) Maximize the effective utilization of local fire suppression  
4 assets consistent with RCW 76.04.181; and

5 (g) Regulate and control the official actions of its employees,  
6 the wardens, and the rangers.

7 (4) The department may:

8 (a) Authorize all needful and proper expenditures for forest  
9 protection;

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

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

18 (d) Inquire into:

19 (i) The extent, kind, value, and condition of all timberlands  
20 within the state;

21 (ii) The extent to which timberlands are being destroyed by fire  
22 and the damage thereon;

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

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

1 frequency, the use of other available designated interoperability  
2 radio frequencies may be used.

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

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

11 (1)(a) The department must make every reasonable effort to  
12 accommodate a livestock owner's request to retrieve or care for  
13 animals in his or her charge that are at risk due to a wildfire.

14 (b) The department may only prohibit livestock owners, or the  
15 owner's employees or agents, from retrieving or caring for livestock  
16 that are lawfully present on the public lands during any fire  
17 suppression response if doing so is reasonably necessary to prevent  
18 interference with a direct, active fire response.

19 (2) The department must incorporate the implementation of this  
20 section into any prefire season training or coordination conducted in  
21 local communities that contain active grazing areas.

22 (3)(a) The owner of livestock lawfully present on public lands  
23 assumes full liability for any damages incurred to himself or  
24 herself, and any employees or agents in his or her charge, if public  
25 lands are accessed to retrieve or care for livestock during the time  
26 of a fire suppression response by the department affecting the public  
27 lands in question.

28 (b) No civil liability may be imposed by any court on the state,  
29 the department, or another political subdivision of the state for any  
30 direct or indirect adverse impacts, including injury or death,  
31 resulting from:

32 (i) The department's reasonable efforts under this section to  
33 accommodate a livestock owner, or the owner's employees or agents, to  
34 retrieve or care for animals in his or her charge that are at risk  
35 due to a wildfire; or

36 (ii) A livestock owner, or the owner's employees or agents,  
37 accessing public lands to retrieve or care for livestock during the  
38 time of a fire suppression response by the department affecting the  
39 public lands in question.

1       **Sec. 3.** RCW 79.13.060 and 2007 c 504 s 2 are each amended to  
2 read as follows:

3       (1) State lands may be leased not to exceed ten years with the  
4 following exceptions:

5       (a) The lands may be leased for agricultural purposes not to  
6 exceed twenty-five years, except:

7       (i) Leases that authorize tree fruit or grape production may be  
8 for up to fifty-five years;

9       (ii) Share crop leases may not exceed ten years;

10       (b) The lands may be leased for commercial, industrial, business,  
11 or recreational purposes not to exceed fifty-five years;

12       (c) The lands may be leased for public school, college, or  
13 university purposes not to exceed seventy-five years;

14       (d) The lands may be leased for residential purposes not to  
15 exceed ninety-nine years; and

16       (e) The lands and development rights on state lands held for the  
17 benefit of the common schools may be leased to public agencies, as  
18 defined in RCW 79.17.200, not to exceed ninety-nine years. The leases  
19 may include provisions for renewal of lease terms.

20       (2) No lessee of state lands may remain in possession of the land  
21 after the termination or expiration of the lease without the written  
22 consent of the department.

23       (a) The department may authorize a lease extension for a specific  
24 period beyond the term of the lease for cropping improvements for the  
25 purpose of crop rotation. These improvements shall be deemed  
26 authorized improvements under RCW 79.13.030.

27       (b) Upon expiration of the lease term, the department may allow  
28 the lessee to continue to hold the land for a period not exceeding  
29 one year upon such rent, terms, and conditions as the department may  
30 prescribe, if the leased land is not otherwise utilized.

31       (c) Upon expiration of the one-year lease extension, the  
32 department may issue a temporary permit to the lessee upon terms and  
33 conditions it prescribes if the department has not yet determined the  
34 disposition of the land for other purposes.

35       (d) The temporary permit shall not extend beyond a five-year  
36 period.

37       (3) If during the term of the lease of any state lands for  
38 agricultural, grazing, commercial, residential, business, or  
39 recreational purposes, in the opinion of the department it is in the  
40 best interest of the state so to do, the department may, on the

1 application of the lessee and in agreement with the lessee, alter and  
2 amend the terms and conditions of the lease. The sum total of the  
3 original lease term and any extension thereof shall not exceed the  
4 limits provided in this section.

5 (4) The department must include in the text of any grazing leases  
6 language that explains the right of access, and associated assumption  
7 of liability, created in section 2 of this act.

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