

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2941

55th Legislature
1998 Regular Session

Passed by the House March 9, 1998
Yeas 95 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2941** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2941

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Kessler, Crouse, Lantz and Bush)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to limiting the liability of utilities for efforts
2 undertaken to protect their facilities from adjacent vegetation; adding
3 a new section to chapter 64.12 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds:

6 (a) Utilities that provide service for the public necessity and
7 convenience, particularly electric, water, and sewer utilities,
8 maintain facilities in rights of way and where easements, both acquired
9 and implied, exist;

10 (b) Vegetation growth on state lands and private properties
11 adjacent to utility facilities can cause damage to utility facilities
12 and pose public safety concerns where such vegetation grows or falls
13 into these facilities; and

14 (c) When vegetation from adjacent land or property causes damage to
15 utility facilities, utility service to customers might be disrupted,
16 collateral damage might occur to other properties, and the general
17 public might be placed in imminent danger.

18 (2) The legislature declares:

1 (a) Utilities have a dual interest in protecting their facilities
2 from potential damages caused by vegetation on adjacent lands or
3 properties and preserving service continuity and reliability for the
4 customer;

5 (b) The cutting or removal of trees, timber, and shrubs by a
6 utility from adjacent lands or properties is often done to protect the
7 utility's facilities, to maintain service continuity and reliability,
8 and to protect the general public, not for commercial or profit-
9 motivated purposes; and

10 (c) Utilities should be immune from liability, including special
11 damages for emotional distress, when a utility cuts or removes from
12 adjacent lands or properties vegetation that has damaged, poses an
13 imminent threat to, or encroached upon utility facilities and the
14 utility has given appropriate notice and opportunity to the land or
15 property owner or resident.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.12 RCW
17 to read as follows:

18 (1) A utility is immune from liability under RCW 64.12.030 and
19 64.12.040, when it cuts or removes any trees, timber, or shrubs that:

20 (a) Have damaged utility facilities or pose a hazard to the general
21 public health, safety, or welfare and the utility makes a reasonable
22 effort as soon as practical to notify and secure agreement from an
23 adjacent land or property owner of record, or the resident of the
24 property, regarding the disposal of any trees, timber, or shrubs that
25 have been cut or removed by the utility;

26 (b) Pose an imminent threat to damage utility facilities and the
27 utility makes a reasonable effort to notify and secure agreement from
28 an adjacent land or property owner of record, or the resident of the
29 property, regarding the cutting or removal and disposal of any trees,
30 timber, or shrubs located on land or property adjacent to utility
31 facilities; or

32 (c) Encroached upon utility facilities and the utility secures an
33 agreement from an adjacent land or property owner of record, or the
34 resident of the property, regarding the cutting or removal and disposal
35 of any trees, timber, or shrubs located on land or property adjacent to
36 utility facilities.

37 (2) Damages under RCW 64.12.030 or 64.12.040 for cutting or removal
38 of natural vegetation by a utility shall be limited to stumpage value.

1 (3) In no event shall a utility be liable for damages for emotional
2 distress for cutting or removing any trees, timber, or shrubs located
3 on land or property adjacent to utility facilities.

4 (4) For the purposes of this section:

5 (a) "Utility facility" means lines, conduits, ducts, poles, wires,
6 pipes, conductors, cables, cross-arms, receivers, transmitters,
7 transformers, instruments, machines, appliances, instrumentalities, and
8 all devices, real estate, easements, apparatus, property, and routes
9 used, operated, owned, or controlled by an electric, water, or sewer
10 utility, natural gas, or telecommunications company, for the purposes
11 of manufacturing, transmitting, distributing, selling, or furnishing
12 electricity, water, sewer, natural gas, or telecommunications services;
13 and

14 (b) "Natural vegetation" means a tree indigenous to the area in
15 which it has grown and is of such age and condition that it can be
16 reasonably determined to have grown naturally in its present location
17 and it was not planted for the purposes of residential aesthetics, or
18 commercial, production, or retail sale.

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