
SUBSTITUTE SENATE BILL 6069

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Natural Resources, Ocean & Recreation
(originally sponsored by Senators Hargrove, Hatfield and Rasmussen)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to the establishment of advisory rates for log
2 haulers; and adding a new chapter to Title 80 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) Washington's agricultural forest products industry is a vital
6 component of Washington's economy and has a direct relationship to the
7 economic health and welfare of workers, rural communities, and
8 businesses.

9 (2) Central to the viability of the forest products industry is a
10 stable work force of log haulers available to transport wood from
11 Washington's forests. This stability is endangered, threatening the
12 viability of rural communities and the employment of those in the
13 forests products sector.

14 (3) Based on patterns and configurations of forest landownership,
15 the hauling of forest products are performed by numerous truckers who,
16 in many cases, despite being labeled "independent contractors" are
17 economically dependent and thus effectively employees of forest
18 landowners.

1 (4) An imbalance of market power exists when one forest landowner
2 owns, possesses, or acquires economic control over more than one
3 hundred thousand acres of forest in a labor market area.

4 (5) The inequity of power in determining compensation results in
5 unfair contract rates for the services of log haulers. This imbalance
6 prevents the labor market from operating in a manner suitable for the
7 public interest of Washington residents.

8 (6) It is in the public interest to ensure a reasonable rate of
9 compensation for log hauling services. This chapter is enacted to
10 create a process whereby forest landowners may refer to utilities and
11 transportation advisory rates when determining compensation for log
12 haulers.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Economic control" means the legal right, whether through
16 ownership, contract, or otherwise, to make or influence decisions
17 regarding the harvest of trees and disposition in general of logs on
18 subject land.

19 (2) "Forest land" means agricultural forest land used primarily for
20 the growth of trees to be harvested for commercial use.

21 (3) "Forest landowner" means:

22 (a) A person, corporation, limited partnership, government,
23 municipality, or any form of business organization registered with the
24 state of Washington that owns directly, or through affiliated persons,
25 or possesses economic control over, more than one hundred thousand
26 acres in a labor market area; or

27 (b) An agent or subsidiary of a person described in (a) of this
28 subsection if that agent or subsidiary is involved in contracting or
29 negotiating contracts or other arrangements, written or oral, with log
30 haulers.

31 (4) "Labor market area" means those counties in one of two forest
32 excise tax hauling areas set forth by the Washington state department
33 of revenue for the purposes of applying the forest excise tax as
34 follows:

35 (a) Those counties located in hauling areas 1, 2, 3, 4, 5, and 10
36 are in one labor market; and

1 (b) Those counties located in hauling areas 6 and 7 are in a second
2 labor market area.

3 (5) "Log hauler" means a person having a place of business in this
4 state who is engaged in the agricultural activity of hauling harvested
5 trees from forest land in the state under a contract or subcontract,
6 directly or indirectly, for a forest landowner.

7 NEW SECTION. **Sec. 3.** (1) The commission in conjunction with the
8 Northwest log truckers cooperative may establish fair, just, and
9 reasonable advisory rates of compensation for log hauling services in
10 each labor market area. Advisory rates may be established as often as
11 the commission deems it necessary and proper.

12 (2) In approving advisory rates with respect to any given forest
13 landowner, the following criteria must be considered. Rates need not
14 be unitary and may take into account variations in these criteria with
15 respect to different portions of the subject land or operations
16 thereon:

17 (a) The log hauler's costs including, but not limited to, wages,
18 overhead, fuel, insurance including health insurance, pensions or other
19 retirement costs, and the cost of replacing equipment;

20 (b) Environmental and highway laws or rules;

21 (c) The impact of the advisory rate on the competitive position of
22 the landowner in the market area or competing market areas;

23 (d) A fair return on investment for all parties;

24 (e) The amount of hauling conducted on private roads and the amount
25 of hauling conducted on public roads including travel time from the
26 hauling site to the delivery site and the conditions of the road; and

27 (f) Safety considerations.

28 (3) Rates established under this section must be published annually
29 on the commission's web site and must be distinguished among labor
30 market areas.

31 NEW SECTION. **Sec. 4.** The commission and each commissioner, or any
32 person employed by the commission, may inspect the accounts, books,
33 papers, and documents of any forest landowner or log hauler seeking to
34 use the advisory rates established by this chapter. The commission or
35 any commissioner may examine under oath any officer, agent, or employee
36 of the forest landowner or log hauler in relation to information sought

1 under section 3 of this act. However, any person other than a
2 commissioner seeking information under this section must be working
3 under the authority of the commission to make the inspection.

4 NEW SECTION. **Sec. 5.** Records, subject to chapter 42.56 RCW,
5 received by the commission from any forest landowner or log hauler that
6 contain valuable commercial information, including trade secrets or
7 confidential marketing, cost, or financial information, are not subject
8 to inspection and copying under chapter 42.56 RCW: (1) Until notice to
9 the forest landowner or log hauler directly affected has been given;
10 and (2) if, within ten days of the notice, the forest landowner or log
11 hauler has obtained a superior court order protecting the records as
12 confidential. The court must determine that the records are
13 confidential and not subject to inspection and copying if disclosure
14 would result in private loss, including an unfair competitive
15 disadvantage. When providing information to the commission, a forest
16 landowner or log hauler must designate which records or portions of
17 records contain valuable commercial information. This section does not
18 prevent the use of protective orders by the commission governing
19 disclosure of proprietary or confidential information in contested
20 proceedings.

21 NEW SECTION. **Sec. 6.** This chapter does not prohibit the
22 negotiation and execution of a contract between a forest landowner and
23 an individual log hauler that provides for the payment of compensation
24 rates other than those determined under this chapter.

25 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
26 a new chapter in Title 80 RCW.

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