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**SENATE BILL 5305**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Van De Wege, Warnick, McCoy, Takko, Short, Sheldon, and Nguyen

Read first time 01/17/19. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to electric utility wildland fire prevention; and  
2 adding new sections to chapter 76.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.04  
5 RCW to read as follows:

6 (1) The commissioner shall convene a utility wildland fire  
7 prevention task force with electrical power distribution utilities by  
8 July 1, 2019, and no less than quarterly thereafter until December 1,  
9 2020. The duties of the task force are to advise the department on  
10 issues including, but not limited to:

11 (a) Developing, for consideration by the department and  
12 individual electric utilities, a model agreement for managing danger  
13 trees and other vegetation that pose a risk of wildland fire and  
14 associated utility liability due to the proximity to electrical  
15 transmission wires and other utility equipment;

16 (b) Developing communication protocols and educational exchanges  
17 between the department and electric utilities for identifying and  
18 addressing issues relating to utility infrastructure to reduce the  
19 risks of wildland fires;

20 (c) Developing protocols, including thresholds, for implementing  
21 the relevant provisions of RCW 76.04.015 when the department's

1 investigation involves electric utility infrastructure or potential  
2 electric utility liability;

3 (d) Creating rosters of certified wildland fire investigation  
4 firms or persons and third-party qualified utility operations  
5 personnel who may be called upon by the parties as appropriate; and

6 (e) Other issues brought forward by task force members.

7 (2) In consultation with the task force created in subsection (1)  
8 of this section, the department must:

9 (a) Make available the form of communication protocols and  
10 educational exchanges between the department and electric utilities;

11 (b) With the assistance of the task force, distribute a voluntary  
12 model danger tree management agreement to utilities for their  
13 consideration for execution with the department;

14 (c) Publish the protocols and thresholds described in subsection  
15 (1)(c) of this section;

16 (d) Issue a roster of third-party certified wildland fire  
17 investigators and qualified utility personnel that may assist the  
18 department or utility in understanding and reducing risks and  
19 liabilities from wildland fire. The department must update the roster  
20 of third-party certified wildland fire investigators and qualified  
21 utility personnel no less than every four years.

22 (3) The department must submit, in compliance with RCW 43.01.036,  
23 a preliminary report to the legislature by December 1, 2019, and a  
24 final report to the legislature by December 1, 2020, on the results  
25 of tasks identified in subsections (1) and (2) of this section and  
26 identification of legislation, if any, necessary to implement the  
27 recommendations of the task force.

28 (4) The commissioner or the commissioner's designee must chair  
29 the task force created in subsection (1) of this section and must  
30 appoint task force members. Task force membership should include:

31 (a) Entities providing retail electric service, including:

32 (i) One person representing each investor-owned utility;

33 (ii) Two persons representing municipal utilities;

34 (iii) Two persons representing public utility districts;

35 (iv) Two persons representing rural electric cooperatives; and

36 (b) Other persons with expertise in wildland fire risk reduction  
37 and prevention.

38 (5) The commissioner or the commissioner's designee shall convene  
39 the initial meeting of the task force.

1           (6) Participation on the task force created in subsection (1) of  
2 this section is strictly voluntary and without compensation.

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

5           In any action against an electric utility or its contractor for  
6 wildland fire damage to forestland or forested lands, or fire  
7 response costs to the department arising from or relating to  
8 generation, transmission, and distribution systems, the plaintiff in  
9 order to prevail is required to prove by a preponderance of the  
10 evidence that the defendant or defendants failed to exercise ordinary  
11 care consistent with the practical operation of the utility, to  
12 prevent such damage, and that as a proximate result of the failure  
13 the plaintiff suffered damages.

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