
HOUSE BILL 1940

State of Washington

66th Legislature

2019 Regular Session

By Representatives Kretz and Blake

1 AN ACT Relating to providing wildland fire response resources in
2 the first forty-eight hours of a wildland fire; amending RCW
3 43.43.960; adding a new section to chapter 76.04 RCW; adding a new
4 section to chapter 52.12 RCW; adding new sections to chapter 43.43
5 RCW; and declaring an emergency.

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

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

9 (1) Within one hour of receiving notification or otherwise
10 learning of an active wildfire, the department must determine whether
11 department resources are readily available to be deployed for initial
12 suppression. If, during the first forty-eight hours of response to
13 the wildfire, the department determines that nondepartment resources,
14 including private firefighting resources, are able to respond more
15 quickly to the wildfire than department resources, the department
16 shall, except in instances of significant cost disparity, retain and
17 deploy nondepartment resources, including private firefighting
18 resources pursuant to RCW 76.04.181, for the first forty-eight hours
19 of wildfire response.

20 (2) No civil liability may be imposed by any court on the state,
21 the department, or the officers and employees of the state or

1 department for any direct or proximate adverse impacts resulting from
2 the actions taken under this section during initial suppression, or
3 the actions and activities of the private firefighting resources
4 utilized by the department under subsection (1) of this section,
5 except upon proof of gross negligence or willful or wanton misconduct
6 by the department, its employees, or the private firefighting
7 resources utilized by the department under subsection (1) of this
8 section.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 52.12
10 RCW to read as follows:

11 (1) Within one hour of receiving notification or otherwise
12 learning of an active wildfire on unimproved property or unprotected
13 property, a nonfederal fire protection service agency must determine
14 whether resources other than those belonging to the nonfederal fire
15 protection service agency, including private firefighting resources,
16 are readily available to be deployed for initial suppression. If,
17 during the first forty-eight hours of response to the wildfire, a
18 nonfederal fire protection service agency department determines that
19 resources other than those belonging to the nonfederal fire
20 protection service agency, including private firefighting resources,
21 are able to respond more quickly to the wildfire than resources
22 belonging to the nonfederal fire protection service agency, the
23 nonfederal fire protection service agency shall, except in instances
24 of significant cost disparity, retain and deploy resources other than
25 those belonging to the nonfederal fire protection service agency,
26 including private firefighting resources pursuant to RCW 76.04.181,
27 for the first forty-eight hours of wildfire response.

28 (2) No civil liability may be imposed by any court on the
29 nonfederal fire protection service agency or the officers and
30 employees of the nonfederal fire protection service agency for any
31 direct or proximate adverse impacts resulting from the actions taken
32 under this section during initial suppression, or the actions and
33 activities of private firefighting resources utilized by the
34 nonfederal fire protection service agency under subsection (1) of
35 this section, except upon proof of gross negligence or willful or
36 wanton misconduct by the department, its employees, or the private
37 firefighting resources utilized by the nonfederal fire protection
38 service agency under subsection (1) of this section.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43
2 RCW under the subchapter heading "state fire service mobilization" to
3 read as follows:

4 (1) The state fire marshal shall establish and manage a
5 premobilization assistance program designed to provide financial
6 assistance to a local fire protection service agency for the cost of
7 contracting for wildland fire response equipment including, but not
8 limited to, bulldozers, water trucks, and aircraft, during the first
9 forty-eight hours of response to a wildland fire, for the purpose of
10 preventing wildland fires from escalating to a level where state fire
11 mobilization becomes necessary.

12 (2) The state fire marshal shall provide reimbursement to a local
13 fire protection service agency of up to ten thousand dollars per
14 wildland fire incident for the cost of contracting for wildland fire
15 response equipment during the first forty-eight hours of response to
16 a wildland fire. If the cost to a local fire protection service
17 agency exceeds ten thousand dollars, the state fire marshal may
18 approve additional funding of up to ten thousand dollars. Total
19 reimbursement from the premobilization assistance program to a local
20 fire protection service agency may not exceed twenty thousand dollars
21 per wildland fire incident.

22 (3) The state fire marshal is not required to provide funding to
23 the premobilization assistance program beyond the amount specifically
24 appropriated by the legislature for that purpose.

25 (4) A local fire protection service agency may request
26 reimbursement from the state fire marshal under the premobilization
27 assistance program for costs incurred in connection with contracting
28 for wildland fire response equipment including, but not limited to,
29 bulldozers, water trucks, and aircraft, during the first forty-eight
30 hours of response to a wildland fire. If the wildland fire incident
31 for which reimbursement is sought involved assistance by the
32 department of natural resources or state fire service mobilization,
33 reimbursement is available only for costs incurred in connection with
34 contracting for wildland fire response equipment prior to the
35 involvement of the department of natural resources or state fire
36 service mobilization. Any request for reimbursement from the
37 premobilization assistance program must be supported by copies of
38 receipts for costs incurred in order to be eligible for
39 reimbursement.

1 **Sec. 4.** RCW 43.43.960 and 2003 c 405 s 1 are each amended to
2 read as follows:

3 (~~Unless the context clearly requires otherwise,~~) The
4 definitions in this section apply throughout this subchapter unless
5 the context clearly requires otherwise.

6 (1) "Chief" means the chief of the Washington state patrol.

7 (2) "State fire marshal" means the director of fire protection in
8 the Washington state patrol.

9 (3) "Fire chief" includes the chief officer of a statutorily
10 authorized fire agency, or the fire chief's authorized
11 representative. Also included are the department of natural resources
12 fire control chief, and the department of natural resources regional
13 managers.

14 (4) "Jurisdiction" means state, county, city, fire district, or
15 port district firefighting units, or other units covered by this
16 chapter.

17 (5) "Local fire protection service agency" means any local
18 governmental entity responsible for the provision of firefighting
19 services, including fire protection districts, regional fire
20 protection service authorities, cities, towns, and port districts.

21 (6)(a) "Mobilization" means that firefighting resources beyond
22 those available through existing agreements will be requested and,
23 when available, sent in response to an emergency or disaster
24 situation that has exceeded the capabilities of available local
25 resources. During a large scale emergency, mobilization includes the
26 redistribution of regional or statewide firefighting resources to
27 either direct emergency incident assignments or to assignment in
28 communities where firefighting resources are needed.

29 (b) When mobilization is declared and authorized as provided in
30 this chapter, all firefighting resources including those of the host
31 fire protection authorities, i.e. incident jurisdiction, shall be
32 deemed as mobilized under this chapter, including those that
33 responded earlier under existing mutual aid or other agreement. All
34 nonhost fire protection authorities providing firefighting resources
35 in response to a mobilization declaration shall be eligible for
36 expense reimbursement as provided by this chapter from the time of
37 the mobilization declaration.

38 (c) This chapter shall not reduce or suspend the authority or
39 responsibility of the department of natural resources under chapter
40 76.04 RCW.

1 (~~(6)~~) (7) "Mutual aid" means emergency interagency assistance
2 provided without compensation under an agreement between
3 jurisdictions under chapter 39.34 RCW.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.43
5 RCW under the subchapter heading "state fire service mobilization" to
6 read as follows:

7 The state fire marshal shall, consistent with RCW 43.01.036,
8 provide a report to the appropriate committees of the legislature on
9 the use of the premobilization assistance program established in
10 section 3 of this act. The report is due by December 1, 2025, and
11 must include the following elements:

12 (1) The number of local fire protection service agencies
13 suppression entities that requested resources from the program;

14 (2) The names and geographic jurisdictions of the local fire
15 protection service agencies that requested resources from the
16 program; and

17 (3) A description and, if available, the name of each incident
18 for which premobilization assistance program resources were requested
19 including: Ignition date and location; total number of acres burned;
20 types of resources deployed; and a timeline of key events.

21 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act are
22 necessary for the immediate preservation of the public peace, health,
23 or safety, or support of the state government and its existing public
24 institutions, and take effect immediately.

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