

Enrolled House Bill 2067

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Forestry Department)

CHAPTER

AN ACT

Relating to fire protection of forests; amending ORS 477.120 and 477.770 and section 11, chapter 685, Oregon Laws 2003; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 11, chapter 685, Oregon Laws 2003, as amended by section 17, chapter 802, Oregon Laws 2005, is amended to read:

Sec. 11. The amendments to ORS 477.755 by section 9, chapter 685, Oregon Laws 2003, and section 12, **chapter 802, Oregon Laws 2005**, [of this 2005 Act] become operative July 1, [2007] **2009**.

SECTION 2. ORS 477.120 is amended to read:

477.120. (1) Except as provided in subsections (2) and (3) of this section, the owner or operator of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064, 477.066 and 477.068 if:

- (a) Forest patrol assessments are regularly paid for the forestland; [or]
- (b) Such forestland is protected pursuant to membership in a forest protective association in accordance with ORS 477.210, which association has undertaken the control and suppression of fires on such land as provided in the contract; or
- (c) Such forestland is protected pursuant to cooperative agreement or contract under ORS 477.406.

(2) The provisions of subsection (1) of this section do not apply to such owner or operator if the owner or operator:

- (a) Is willful, malicious or negligent in the origin or subsequent spread of a fire on such forestland;
- (b) Has caused or permitted an operation to exist on such forestland and a fire originates thereon as a result of the operation;
- (c) Has failed to give notice to the forester pursuant to ORS [477.580 (1)] **527.670 (6)**, **has failed to obtain a permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625** or has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4); or

(d) Has caused or allowed any burning, including burning regulated by ORS 477.013 or 477.515, whether or not a permit has been obtained and a fire results from or is caused by such burning.

(3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be obligated to pay that portion of the actual costs provided in ORS 477.068 which are the ordinary costs of the regular personnel and equipment of the forest protection district wherein the forestland is located.

(4) If subsection (2)(b) or (d) of this section applies and subsection (2)(a) and (c) of this section do not apply, the owner or operator shall not be liable to the forester for fire suppression costs in excess of \$300,000.

(5) The provisions of subsections (3) and (4) of this section do not apply to the owner or operator if the owner or operator fails to make every reasonable effort.

(6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation.

SECTION 3. ORS 477.770 is amended to read:

477.770. The Emergency Fire Cost Committee shall promulgate rules relating to the disposition of moneys from the Oregon Forest Land Protection Fund. Under such rules the committee may require that prior to the payment of moneys from the fund the forest protection district expend an amount for **emergency** fire suppression not to exceed a per acre amount determined to be 10 percent of the total budgeted amount of all districts as set forth in ORS 477.220 to 477.415 divided by the total protected acres of all districts. However, any such amount per acre shall apply uniformly to each forest protection district.

SECTION 4. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House June 22, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 25, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State